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Chairman: Mr. Al Bayati (Iraq)
later: Ms. Rodríguez-Pineda (Vice-Chairperson). (Guatemala)

Contents

Agenda item 79: The rule of law at the national and international levels (*continued*)

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The meeting was called to order at 3.05 p.m.

Agenda item 79: The rule of law at the national and international levels (*continued*) (A/63/64, A/63/69-S/2008/270, A/63/154, A/63/226, A/63/281-S/2008/431 and A/C.6/63/2)

Briefing by the Deputy Secretary-General

1. **The Deputy Secretary-General**, briefing the Committee on the activities of the Rule of Law Coordination and Resource Group, drew attention to the three reports concerning the rule of law prepared by the Secretary-General pursuant to requests by the General Assembly at its previous session (A/63/64, A/63/226, and A/63/154) and outlined their content.

2. She could not overemphasize the importance of the rule of law at the international level or of the critical interface between national and international order. The United Nations must effectively assist Member States in developing their capacities to ensure effective enforcement and enjoyment of a just national and international order. Accordingly, one of the key messages of the Secretary-General's report on strengthening and coordinating rule of law activities (A/63/226) was the need to ensure national ownership. Developing the rule of law required the full and meaningful participation and support of national stakeholders. No programme could be successful in the long run if it was imposed from the outside. The role of the United Nations was to provide space and mobilize resources for national stakeholders to develop and implement their vision and their national plans and programmes.

3. Recent United Nations efforts to coordinate and strengthen its rule of law activities included the establishment of the Rule of Law Coordination and Resource Group, which brought together nine departments and agencies and was supported by the small but substantive Rule of Law Unit. That new arrangement had already delivered some tangible results, in addition to the substantial ongoing assistance provided by each of the departments and agencies. For example, the Group had adopted a guidance note, endorsed by the Secretary-General, on the United Nations approach to rule of law assistance. It had also adopted a guidance note on justice for children, developed under the leadership of the United Nations Children's Fund (UNICEF) in close cooperation with the Unit and endorsed by the

Secretary-General. In addition, the various departments and agencies had strengthened their rule of law capacities in accordance with their respective mandates with a view to filling identified gaps. The Group was developing a strategic plan for the period 2009-2011, which would identify joint outcomes to which the activities of its nine members could contribute.

4. Despite significant advances in recent years, more needed to be done to make United Nations rule of law assistance more coherent and effective. The Secretary-General had made a number of recommendations with a view to improving coordination and efficiency and she was confident that his report would provide a solid background for the Committee's discussions. It was evident from the three reports, and from recent experience, that the Unit's role was essential in supporting United Nations system efforts to enhance coordination, coherence and efficiency. Nevertheless, it had been operating on an interim basis since the beginning of 2007 and had been staffed through secondments from other departments and agencies. That situation could not go on indefinitely; the Unit needed to be placed on a sound and sustainable financial footing, as laid out in the Secretary-General's report on revised estimates relating to the programme budget for the biennium 2008-2009 related to the Rule of Law Unit (A/63/154). She urged Member States to ensure that the Unit was fully funded from the regular budget.

5. The United Nations was more than ever committed to working towards a just, secure and peaceful world governed by the rule of law. To achieve that goal, it was essential for the Organization to enhance its ability to deliver adequate rule of law assistance to Member States, at their request and in accordance with their own priorities and national strategies. She therefore appealed to Member States to support the Secretary-General's recommendations concerning the Unit's staffing and other resource needs.

6. **Ms. Negm** (Egypt) said that the rule of law at the national and international levels should derive from the general principles of international law and be rooted in the values set forth in paragraph 25 of the report of the Secretary-General on strengthening and coordinating United Nations rule of law activities (A/63/226), among them respect for the sovereign equality of States, the resolution of disputes by peaceful means and respect for and promotion of human rights and

fundamental freedoms. It was also vital to end all abuse of the principle of universal jurisdiction and the attendant disrespect for the territoriality of national laws, which had a destabilizing effect on international relations. In particular, the exclusive application of that principle to nationals of African States constituted an obvious violation that needed to be addressed.

7. Given the importance of capacity-building for the relevant national entities, it was similarly vital to address the current deficit in funding for United Nations rule of law activities and to coordinate their implementation while, at the same time, building confidence through respect for the principle of national ownership in terms of requests for assistance and of the conduct and termination of activities on the ground. In that context, the main United Nations bodies should not only increase their efforts to ensure respect for the principles of international law, without distinction, but also remain within the confines of their mandates under the Charter. She therefore welcomed the Mexican proposal to add activities relating to implementation of the decisions of judicial organs of the United Nations to the list of activities relating to the promotion of the rule of law at the international level. She also suggested the further addition of activities relating to implementation of the advisory opinions of the International Court of Justice on the basis of their legal, ethical and moral values, the aim being to strengthen the role of the Court and reinforce the concept of the rule of law.

8. **Mr. Mikanagi** (Japan) said that his Government strongly supported the activities of the United Nations with regard to the rule of law at the national and international levels. However, the inventory prepared by the Secretary-General in his report (A/63/226) indicated that various United Nations organs were engaging in similar activities; they should coordinate closely with one another in order to avoid duplication.

9. The international courts had an important role to play in strengthening the rule of law at the international level. Japan had accepted the compulsory jurisdiction of the International Court of Justice, to which it had contributed judges. It had also become a party to the Rome Statute of the International Criminal Court in 2007 and was currently the Court's largest financial contributor. He hoped that more States would accede to the Rome statute and stood ready to share its experience with those that were considering doing so. With regard to the Extraordinary Chambers in the

Courts of Cambodia, his Government continued to make every effort to bring about the speedy holding of trials.

10. With a view to enhancing the rule of law at the national level, Japan had been providing technical assistance in South-East Asia and would consider cooperating with other regions that requested such assistance. His Government welcomed the launching of the United Nations Audiovisual Library in International Law as a significant step towards promoting education in that field and would be making a contribution to the project.

11. The Committee's discussion of the rule of law should be as focused as possible. His delegation was of the opinion that the issue of technical assistance for strengthening the rule of law should be given high priority; the role of the International Criminal Court in establishing the rule of law was another possible topic for discussion.

12. **Mr. Agha** (Pakistan) said that the rule of law was critical to social and economic justice and international peace and stability. The Constitution of Pakistan was founded on the principle of equal rights and equal treatment of all persons before the law and guaranteed the fundamental rights and freedoms. Pakistan was a full-fledged democracy, as illustrated by its recent general elections. In that connection, he paid tribute to former Prime Minister Benazir Bhutto, who, throughout her long and distinguished political career, had worked to promote democracy and the rule of law.

13. The Pakistani people strongly believed that democracy and the rule of law were intertwined. Pakistan fully subscribed to the principle that a culture of impunity should never be allowed to prevail; in particular, those responsible for genocide and other crimes against humanity must be brought to justice. His Government fully supported the mandate and work of the International Criminal Tribunals for Rwanda and the former Yugoslavia, which had shown, each within its scope, that no one was beyond the reach of international law, including both the leaders who created policies and the foot soldiers who carried them out.

14. The rule of law played a pivotal role in the quest for social and economic justice and the implementation of political, economic, cultural, religious and environmental rights in divided post-conflict societies. The United Nations had long been deploying

peacekeeping troops in post-conflict situations; those troops had played exemplary roles, often in trying and dangerous circumstances, and their achievements were a source of satisfaction and pride for their parent countries, including Pakistan. Justice and the rule of law must be promoted in all post-conflict societies, which should be helped to stand on their own feet through national institution-building and judicial capacity-building. Good use might be made of indigenous and informal traditions for the administration of justice and settlement of disputes, provided that they were consistent with international norms.

15. Pakistan fully supported the establishment of the Rule of Law Unit, which would help ensure that the various rule of law activities were effectively coordinated and minimize duplication of effort and waste of resources. Ensuring respect for the principles of justice and the rule of law was essential to the establishment and maintenance of order at the national and international levels; inconsistency in application of the rule of law at either level must be eliminated. The resolutions and decisions of the Security Council must be implemented uniformly, without discrimination and with equal force, irrespective of whether they fell under Chapter VI or Chapter VII of the Charter of the United Nations. Selective implementation created an unjust environment, deepened conflicts, compounded the suffering of peoples and undermined the credibility of the United Nations.

16. The international judicial institutions must be strengthened in order to ensure adherence to the principles of the Charter and international law and to promote the peaceful settlement of disputes. The Security Council should make the best possible use of the International Court of Justice, and situations that posed a threat to international peace and security must be dealt with by the United Nations in line with the principles of the Charter; in particular, the use of force should be consistent with the Charter's principles relating to collective security.

17. **Mr. Singh** (India) said that India strongly supported adherence to the rule of law at both the national and the international levels and saw its promotion as an essential tool for ensuring sustainable development and peaceful coexistence and cooperation among States. Given the breadth of the United Nations engagement in rule of law activities, as reflected in the inventory contained in the Secretary-General's report

(A/63/226), his delegation hoped that the Rule of Law Coordination and Resource Group would be able to fulfil its function as a focal point for coordinating activities and preventing duplication of effort. The Secretary-General had rightly pointed out that the United Nations still suffered from underfunded mandates and shallow capacities in a number of areas relating to the rule of law. The Organization therefore needed to enhance its expertise and capacity.

18. Rule of law assistance had sometimes been piecemeal and, in some instances, donor-driven and not in line with the national priorities of the recipient countries. There was an urgent need to move towards sustainable country-driven approaches that would garner the requisite political and popular support. Merely supplying generic expertise through a top-down approach involving the provision of model legislation or visits by foreign experts was often not as helpful as a bottom-up approach that sought to build local expertise and foster a culture of respect for the law. The Secretary-General's report (A/63/226) correctly identified partnerships with national rule of law stakeholders as key to the success of rule of law assistance activities.

19. The United Nations was but one actor in the field. A lack of strategic planning and coordination among all relevant entities, including donor Governments and non-governmental organizations (NGOs), could lead to duplication and waste of effort and money. Greater coordination and coherence within the United Nations had to be matched by coherence with other rule of law actors; his delegation welcomed the development of a strategic plan for 2009-2011 aimed at identifying a shared vision, common objectives and joint activities that would maximize areas of synergy and complementarity while minimizing overlap and duplication.

20. The Secretary-General had made a number of recommendations for moving the rule of law agenda forward. His delegation hoped that the Committee would consider those recommendations and, at the current session, choose a topic that would enable it to have a structured discussion which would be capable of promoting and strengthening the rule of law at the national and international levels.

21. **Mr. Mukongo Ngay** (Democratic Republic of the Congo) highlighted the synergy that existed between respect for the rule of law at the national level and

recognition of the principles that governed it at the international level. Promotion of the rule of law at the international level went back to the notion of “peace through law” on which the League of Nations had been founded. The same concept had inspired the drafters of the collective security system of the United Nations and continued to dominate contemporary international law. The rules of international law were often poorly understood or entirely unknown among decision makers, judges and lawyers at the national level. His delegation therefore reiterated its suggestion that the United Nations should organize seminars and workshops on the process of treaty ratification in the territories of Member States so that jurists at the national level could participate. Moreover, as universities served as vehicles for disseminating knowledge of international law, it would be useful to encourage close contact between universities and those responsible for the nation’s international relations.

22. His country had sought to contribute to the rule of law by becoming a party to the main multilateral legal instruments. It recognized the compulsory jurisdiction of the International Court of Justice and, indeed, had been one of the main litigants before the Court, a fact that demonstrated its confidence in that institution as a mechanism for the settlement of disputes and an important partner in the establishment of the rule of law.

23. The rule of law required the effective administration of justice in order to prevent impunity and consolidate and maintain a lasting peace. His country had seen first-hand the irreplaceable role that justice played in achieving social harmony, national reconciliation, peace, security and stability. It therefore supported the international courts, including the work of the International Criminal Court, with which his Government was cooperating fully in the trials of Congolese nationals. Although his delegation was aware that primacy of jurisdiction by national courts was the rule, the current criminal justice system in his country was inadequate to meet the post-conflict challenges of dealing with such crimes as rape as a weapon of war, organized crime and money-laundering, arms trafficking and illegal exploitation of natural resources.

24. The country needed support from the international community, including substantial technical and financial assistance, in order to complete the reform of its judicial system and thus make the rule

of law a reality. His delegation therefore welcomed the establishment of the Rule of Law Coordination and Resource Group within the Secretariat. It believed that the new Group, in addition to the functions already entrusted to it, should have a cooperation mechanism for providing assistance with investigations and with the uncovering, gathering and preservation of evidence in order to bring to justice the perpetrators of the most serious crimes in countries in post-conflict situations.

25. **Mr. Erwin** (Indonesia) said that he welcomed the reports of the Secretary-General on the rule of law at the national and international levels (A/63/64) and on strengthening and coordinating United Nations rule of law activities (A/63/226), which showed the importance of responding to the capacity-building needs of individual Member States. Indonesia was a firm proponent of the rule of law. At the national level, the United Nations promoted the rule of law through two categories of activities: those aimed at strengthening administrative institutions and addressing public law and governance, and those intended to strengthen the administration of justice and law enforcement. Both kinds of activities, and improving the capacity to implement them, were important for sustainable development and the maintenance of peace.

26. As a young democracy, Indonesia believed that the rule of law was at the heart of social and economic progress. Since democracy and the rule of law were interrelated at both the national and the international levels, his delegation would like to see equal attention paid to both the international and the national aspects of the rule of law. It strongly supported the strategic approach identified by world leaders at the 2005 World Summit, and hoped that the Rule of Law Coordination and Resource Group would have an impact on coordination under that strategy. Lastly, the Rule of Law Unit could help many States develop and strengthen their own rule of law capacity, but its work must supplement, not supplant, the work of receiving States within the priorities identified by them. Indonesia looked forward to cooperating with the Unit in enhancing its own domestic capacity.

27. **Mr. Chong** (Singapore) said that a strong rule of law was a rudder to steer by in the chaos that threatened to accompany the relentless march of globalization. Faithful adherence to the rule of law at the national and international levels was crucial to the maintenance of international peace and security and an

aid to countries pursuing sustainable long-term development. As a small State lacking natural resources, Singapore was heavily dependent on cross-border flows of goods, services, technology and people. It had a vested interest in a multilateral system bound by fair and transparent laws, especially those governing the trade in goods and services and the freedom of navigation. It attached great importance to upholding the rule of law at the international level and took its international treaty obligations seriously. In treaty law, there was no room for selective compliance based on unilateral interpretation. Unilateral departure from the provisions of the United Nations Convention on the Law of the Sea, for example, could undermine the entire Convention and would have severe implications for the strategic, military, shipping, economic and energy interests of the entire global community.

28. The United Nations was an ideal forum for negotiating norms and standards to add to the body of international law; it should not be used to impose the cultural values of any individual country or group of countries on the rest of the international community. Such attempts were, however, made every year, especially in the Third Committee. Fortunately, Article 2, paragraph 7 of the Charter of the United Nations, stipulated non-intervention in matters essentially within the domestic jurisdiction of States. Every State had the sovereign right to choose its own political, economic, social and legal system and to decide which laws and penalties were appropriate for its own society; in that regard, some States took the view that maintaining the death penalty provided a deterrent against the most serious crimes.

29. The Committee would soon decide on which topics to focus its discussions of the agenda item. His own delegation favoured the proposal, put forward on behalf of the Non-Aligned Movement, aimed at promoting a common understanding of the rule of law. It would also be interested in exploring the question of the implementation in good faith of international obligations.

30. **Mr. Dos Santos** (Mozambique) said that at the international level, the rule of law must serve as the foundation for cooperation and peaceful coexistence among States. The United Nations had a crucial role to play in ensuring that all nations resorted increasingly to an effective multilateral system in order to address common global challenges relating to peace and

security, human rights and development. The activities of the United Nations system must encourage further treaty ratification and adherence, wider promotion and knowledge of international law and wider participation by States in the codification and progressive development of international law. Special attention must be paid to the need to enhance national capacities for the domestic implementation of international legal instruments; thus, United Nations activities for the rule of law should be adequately mainstreamed within the Organization's development assistance activities.

31. At the national level, the rule of law must act as the foundation for democracy and for the promotion of and respect for the individual rights and freedoms enshrined in the State's constitution. That called for a strong and independent judicial system fully accessible to all citizens. He agreed with the Secretary-General that more must be done to ensure that the rule of law was placed at the centre of United Nations activities at the country level. The commitment of national authorities and communities was essential to any rule of law assistance programme, and they must be able to participate in defining the needs and aspirations to be addressed. Greater cooperation from countries should be sought through regional initiatives such as the African Peer Review Mechanism, a voluntary scheme aimed at enabling African countries to strengthen their democratic rule and governance by sharing and disseminating codes of best practice. Twenty-nine countries, including his own, had already joined the Mechanism, and confidence in it was growing.

32. He welcomed the work done thus far by the Rule of Law Coordination and Resource Group, with the support of the Rule of Law Unit, and urged it to continue in its role of coordinating system-wide rule of law activities. He supported the recommendations made by the Secretary-General, especially with regard to the need to explore ways and means of maximizing available financial resources.

33. **Mr. Eriksen** (Norway) recalled that the 2004 report of the Secretary-General on the rule of law and transitional justice in conflict and post-conflict societies (S/2004/616) had highlighted the need for accountability of all persons and entities to laws which were publicly promulgated, equally enforced and independently adjudicated, and which were consistent with international human rights norms and standards. Those values and interests were also relevant at the international level; the principles governing

commitment to the rule of law had been set forth in the 2005 World Summit Outcome document: respect for the Charter of the Organization and for international law, recognition of an effective multilateral system and the sovereign equality of States, the need to resolve disputes by peaceful means, respect for and protection of human rights and fundamental freedoms and the recognition that protection from genocide, crimes against humanity and war crimes was also the responsibility of the international community.

34. Norway reaffirmed its commitment to the rule of law at the international level and supported the recommendations of the Secretary-General. It had accepted the compulsory jurisdiction of the International Court of Justice and invited all States that had not yet done so to do the same. Renewing its efforts to combat impunity and strengthen universal justice, including through the International Criminal Court and the international ad hoc and hybrid tribunals, it also reiterated the need to progressively develop, codify and implement international law. It recognized the importance of the rule of law in peacemaking, peacekeeping and peacebuilding.

35. A rule of law framework at national level should include a Constitution or its equivalent, a clear and consistent legal framework, strong institutions of justice, governance, security and human rights, transitional justice processes and mechanisms and accountable public officials and institutions. He welcomed the Secretary-General's proposals for sustainable technical assistance to Member States and for integrating the rule of law agenda into United Nations country activities.

36. Turning to the rule of law within the United Nations, he welcomed the development of its internal justice system, which should conform fully to internationally recognized judicial standards, but expressed concern with regard to the procedural rules of the Security Council's targeted sanctions regimes. The legal safeguards for listed persons must be strengthened to include the right to be informed, the right to be heard and the right to review by an effective independent mechanism.

37. He welcomed the establishment of the Rule of Law Coordination and Resource Group and the Rule of Law Unit, as well as the recommendations of the Secretary-General in that regard, and was encouraged by the strategic, results-based approach being taken. It

was essential to provide the Unit with the necessary financial and human resources by assigning it a budget line under the regular budget.

38. As one of the possible sub-topics for discussion under the agenda item, he suggested the strengthening of criminal justice at the national and international levels, which would provide an opportunity to consider technical assistance and capacity-building.

39. **Mr. Kang'ombe** (Zambia) welcomed the reports of the Secretary-General and commended the work of the Rule of Law Coordination and Resource Group and the Rule of Law Unit. Zambia was a democratic State, adhering to the rule of law at the national and international levels. In order to safeguard the rule of law domestically, it had established institutions and mechanisms such as the Electoral Commission, the Human Rights Commission, the Anti-corruption Commission, the Task Force on Corruption and the Commission for Investigations. In 2007, it had legislated for a constitutional conference in order to bring together political parties, civil society and other key stakeholders to agree on a new constitution. Zambia had acceded to the African Peer Review Mechanism, and had recently appointed a National Governance Council to implement it at the national level. Following the untimely demise of its President on 19 August 2008, it would hold a by-election on 30 October 2008 in which all political parties would be free to participate. The Government had invited local and international observers to monitor the electoral process. Zambia had also ratified many international instruments, some of which had been incorporated into domestic law; and had signed four new treaties at the 2008 United Nations Treaty Event.

40. His country's chief difficulty lay in implementation, owing to a lack of resources for institutions and mechanisms. In particular, its Human Rights Commission needed funds to employ staff and establish offices around the country. He called on the United Nations and the international community to continue providing technical assistance and capacity-building in order to strengthen such institutions in developing countries.

41. **Mr. Sekudo** (Nigeria) said that the rule of law was essential to sustain economic growth, eradicate poverty and hunger and protect human rights and fundamental freedoms. Recognizing the need to maintain the independence of the judiciary, his

Government ensured that court judgments were implemented diligently and speedily and had embarked on an anti-corruption crusade, consolidating the work of the relevant national agencies. At the international level, it had repeatedly restated its commitment to the ideals of the United Nations and discouraged the unilateral use of force by States. It had recently demonstrated that commitment by ceding its sovereignty over the Bakassi Peninsula to Cameroon in compliance with the 10 October 2002 judgment of the International Court of Justice, and called on other Member States to emulate its non-belligerent approach to dispute settlement. It was determined to act in partnership with other African countries to address the issues affecting the continent — peace, stability, governance and development — with respect for due process and the rule of law, particularly in Darfur, Zimbabwe and Mauritania, while respecting State sovereignty and the right of peoples to chart their own political destinies. His Government had embarked on a process of ratifying and incorporating into domestic law all the treaties it had signed.

42. Commending the Secretary-General on the two reports contained in documents A/63/226 and A/63/64, he agreed that much remained to be done to place the rule of law at the centre of United Nations initiatives at country level. National perspectives should be given pride of place in that endeavour, especially in African countries where the need for capacity-building was urgent. Because the rule of law was inextricably linked to human rights, including economic, social and cultural rights; more incisive action was needed to address the special needs of Africa and of the least developed countries and the small island developing States. In light of globalization and the recent financial crisis, the international community must ensure a global balance in all aspects of development, including the rule of law.

43. **Mr. WinMyint** (Myanmar) said that the rule of law at the national and international levels was complementary, interdependent and a sine qua non for achieving peace, stability, economic development and social progress. Politically motivated law, enacted at the national level and directed against other States, had a negative impact on the rule of law at the international level and on international relations. His delegation therefore shared the position of the Non-Aligned Movement that Member States must respect the

functions and authority of each principal organ of the United Nations.

44. He noted with interest that the United Nations was now conducting rule of law operations in over 110 countries. Promoting the rule of law was equally important at the international and the national levels, but at the national level it was the responsibility of the national authorities and the international community should support them at their request. He hoped the Rule of Law Coordination and Resource Group and the Rule of Law Unit would play an active role in coordinating and rationalizing the organization's activities.

45. Myanmar recognized the primacy of customary international law and the obligation of States to ensure that their national laws conformed to their international obligations; it kept its own laws under review to ensure that they reflected international norms and standards.

46. **Mr. Baghaei Hamaneh** (Islamic Republic of Iran) said that respect for the rule of law, both within States and in their international relations, was vital in order to achieve a secure, peaceful, just and prosperous world. The basic principles of international law, particularly respect for the sovereign equality of States, non-interference in their internal affairs and the right of self-determination of peoples, must be borne in mind when dealing with the rule of law at the national level. It was the sovereign right of each nation to establish its own model for the rule of law and an efficient and fair legal system based on its own traditions, needs and circumstances. Technical assistance for capacity-building in that area should be granted at the request of States under the leadership of the United Nations. As emphasized in the report of the Secretary-General (A/63/226), no rule of law programme could be successful in the long term if imposed from the outside. At the same time, domestic laws should not violate fundamental principles of international law, the international obligations of the State or the sovereign rights of other States. Similarly, unilateral and extraterritorial application of domestic laws against other countries was tantamount to an internationally wrongful act.

47. As stated by the Secretary-General in his report, the rule of law was both an aim of the United Nations and a means to achieve its ends. The Organization had been established principally to save succeeding generations from the scourge of war by replacing the

rule of force and power with the rule of law and justice. The peaceful settlement of international disputes — one of the purposes of the United Nations set out in the Charter — would be achieved only in a law-based international order where international law was respected by all States in their international relations and all States were committed to refrain from the unlawful use of force.

48. Special attention should be paid to incorporation of international obligations into the domestic legal systems of States. However, the rule of law at the international level should not be reduced to the codification of international law and the subsequent accession of States to international treaties; it should also include promotion of the legitimacy of international law. The principle of the sovereign equality of all States implied that all nations, whether large or small, should have an equal chance to participate in norm-making processes and international legislative activities. Similarly, international law should be respected equally by all States and selectivity and double standards in the enforcement of international treaties should be rejected.

49. The United Nations should promote the rule of law within the Organization as well. Staff members should have access to a fair and efficient system of internal justice; his delegation looked forward to operationalization of the new system in 2009. At the same time, staff should be held accountable for any misconduct. Initiatives aimed at ensuring the criminal accountability of United Nations officials and experts on mission were therefore welcome.

50. The Organization's principal organs should respect each other's mandates and competence, as defined in the Charter. In particular, the important role of the General Assembly in the progressive development and codification of international law should be fully respected by other organs of the United Nations, particularly the Security Council. The Council's primary responsibility was the maintenance of international peace and security, but its mandate was not unlimited; it was bound by the Charter and must exercise its powers in accordance with it and refrain from intervening in the internal affairs of Member States. If it made decisions on the basis of inauthentic information or politically motivated speculative analysis, its credibility and reputation would be undermined and Member States' trust in it damaged.

51. Lastly, his delegation supported United Nations initiatives to strengthen the rule of law at the international level and hoped that the efforts of the Rule of Law Unit would improve the effectiveness of the Organization's assistance programmes in that field.

52. **Mr. Moeletsi** (Lesotho) said that promoting the rule of law at the national and international levels was at the heart of the Organization's mission. Lesotho, a country ruled by a democratically elected Government, respected and upheld the rule of law that protected the rights of its citizens as enshrined in the Constitution. It also supported the development of international norms and standards to ensure the accountability of Member States in their implementation of domestic law.

53. The Committee, particularly through its relationship with the International Law Commission, had been instrumental in the codification and progressive development of an impressive body of international treaties. Respect for the rule of international law was crucial to the maintenance of international peace and security, the peaceful settlement of disputes, the promotion and protection of human rights, and sustainable development and prosperity. Member States should remain mindful of the need for universal adherence to and implementation of the rule of law at both the national and international levels, as recognized in the 2005 World Summit Outcome document.

54. **Ms. Kinzhebayeva** (Kazakhstan) said her delegation hoped that the Committee's discussion of the rule of law would strengthen the Organization's role in that area and promote international peace and security. Kazakhstan was a democratic, secular, social State governed by the rule of law, and attached the utmost importance to human beings and their lives, rights and freedoms. The fundamental principles of Kazakh society were political stability, economic development for the benefit of all, equality of all before the law, the separation of powers, friendly and mutually beneficial cooperation between communities, intercultural and inter-religious dialogue, and tolerance. Her Government, drawing on the experience and expertise of the international community, was implementing legislative reform in important areas such as elections and the activities of the media and religious associations. Such reform, a long-term strategic priority of the State, involved informed decision-making with unconditional respect for the interests of a multifaceted civil society.

55. It was clear that the improvement of domestic law was directly dependent on, inter alia, the progressive development and codification of international law. Her delegation favoured the strict and unconditional observance of peremptory norms of international law, which formed the foundation of the modern world order, and supported the efforts of the international community to resolve important issues of the day on the basis of international law. It pursued a policy of cooperation, good-neighbourly relations and equality between States, non-interference in each other's internal affairs and peaceful settlement of international disputes. It also adhered to the principle of no first use of armed force.

56. Regrettably, the world was witnessing serious challenges to the system of international law, including the non-observance of its universal norms and the unacceptable application of double standards. Regional and global peace and security, the resolution of crises and the stable development and prosperity of peoples could be achieved only if the United Nations played a central role in world affairs and if its Charter and the generally accepted standards for the conduct of international relations were respected.

57. **Ms. Sihathep** (Lao People's Democratic Republic) said that strengthening the rule of law was a priority on the international agenda for which the United Nations bore the primary responsibility. She therefore favoured the establishment of mechanisms designed to promote the rule of law at the national and international levels, including the Rule of Law Coordination and Resource Group and the Rule of Law Unit, both of which should also be strengthened in order to facilitate and assist the efforts of States in that regard.

58. Her Government attached great importance to the international legal framework and was a party to various international, regional and bilateral instruments. It implemented its obligations under those instruments in good faith, and, since 2002, had been engaged in an internationally funded law project designed to incorporate such obligations into its national legislation. It had recently prepared a comprehensive national framework aimed at building the country's rule of law through development of its legal and judicial system and improvements in governance and public administration. International cooperation and assistance, including guidance on rule

of law capacity-building, were key factors for States such as hers.

59. *Ms. Rodríguez-Pineda (Guatemala), Vice-Chairperson, took the Chair.*

60. **Mr. Charles** (Trinidad and Tobago) said that observance of the international rule of law was essential to a just and peaceful world. Justice and peace were inextricably linked, and sustainable development, economic growth and the observance of human rights could be compromised without adherence to the basic tenets of the rule of law, both nationally and internationally.

61. His delegation welcomed the adoption of General Assembly resolution 62/70 on the rule of law at the national and international levels, which provided for the provision of capacity-building to States. Cooperation among Member States, intergovernmental agencies and other actors was indispensable to efforts to promote the rule of law. Seminars and workshops organized by the Office of Legal Affairs had increased the number of ratifications of various international instruments, thus advancing their universality. Trinidad and Tobago was a staunch supporter of multilateralism and recognized the important role played by United Nations entities in promoting the rule of law, particularly in conflict and post-conflict situations

62. His delegation welcomed the establishment of the Rule of Law Coordination and Resource Group, supported by the Rule of Law Unit, and was hopeful that those initiatives would receive the necessary financial and other support from Member States so that they could discharge their mandates effectively and thus contribute to an international order based on justice and respect for the rule of law.

63. **Ms. Zabolotskaya** (Russian Federation) said that international relations must be solidly based on the norms and principles set out in the Charter of the United Nations, the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter, and the international conventions and treaties elaborated by the international community. The role of the United Nations in implementing the principle of the rule of law could not be overestimated since the basic standards and norms of international law and the mechanisms for their implementation had been elaborated under its auspices.

64. Her delegation welcomed the inventory of the current rule of law activities of the United Nations contained in the report of the Secretary-General (A/63/64). Although the report did not entirely adhere to the principle of describing activities performed by the Secretariat rather than those of Member States, it was an extremely useful document which showed that while the work being carried out was impressive, it required rationalization and coordination. The Secretary-General's report on strengthening and coordinating United Nations rule of law activities (A/63/226) was supposed to focus on such rationalization and coordination. However, it contained no specific proposals to that effect; rather, it set out general principles and issued calls chiefly to Member States; a thorough analysis of programmes already being implemented and ways of rationalizing them would have been of greater interest.

65. Her delegation reiterated its proposal that the Committee should consider the topic "The importance of the implementation of international obligations through technical assistance and capacity-building" as part of its discussion of the rule of law. It was clear from the inventory of current rule of law activities that the provision of technical assistance to States played a central role therein. Tangible progress could be made by structuring the services offered and fostering cooperation among all partners. It might be appropriate to establish a single centre to which States could apply for assistance and be referred to the relevant department or body of the United Nations.

66. Her delegation welcomed the establishment of the Rule of Law Coordination and Resource Group, chaired by the Deputy Secretary-General. However, the proposal to strengthen the Group's capacities in practical areas such as management, oversight, crime prevention and access to justice was premature. The Group should have a coordination rather than an executive function. She also welcomed the proposal in the Secretary-General's report (A/63/226) that the Group should develop a joint strategic plan to improve the quality of technical assistance provided to States. Some aspects of the report, in particular the principles for the provision of assistance, could be considered by Member States, especially in the Sixth Committee.

67. The Rule of Law Unit was providing and would continue to provide technical support to the Rule of Law Coordination and Resource Group and its Chairperson. Administrative and practical issues

relating to the Unit would be considered by the Fifth Committee.

68. **Ms. Nguyen Thi Thanh Ha** (Viet Nam) said that full adherence to the purposes and principles of the Charter of the United Nations and to the principles of international law was indispensable to socio-economic development, peace and security, human rights and the rule of law. Efforts to strengthen the rule of law at the international level should consequently be guided by the seven principles articulated in paragraph 25 of the report of the Secretary-General (A/63/226).

69. Notwithstanding the commendable achievements made in the field of international law, the frequency of violations and the poor means of accountability gave cause for profound concern, as did the selectivity and double standards in the application of such law. At the national level, a country's entire population should be involved in defining, implementing and safeguarding the rule of law as befitted its own conditions, there being no universal model to suit all; the considerable number of United Nations rule of law activities under way throughout the globe were welcome if conducted with due respect for those conditions and for national independence and sovereignty.

70. Since its independence in 1945, Viet Nam had worked tirelessly to build a State of the people, by the people and for the people. The comprehensive reform process begun 22 years earlier had culminated in a legal framework that reflected the country's will and aspirations. Government powers were subject to parliamentary monitoring and judicial organs exercised their functions strictly in accordance with the law. As a developing country with capacity and resource constraints, Viet Nam qualified for technical assistance that was employed in furtherance of its national strategies for development of the legal system and for judicial reform. In conclusion, she remarked that the recommendations for cultivating a just, secure and peaceful world governed by the rule of law, contained in part IV of the report of the Secretary-General (A/63/226), merited serious consideration and discussion.

71. **Ms. Kasyanju** (United Republic of Tanzania) commended the work thus far undertaken by the Rule of Law Coordination and Resource Group and the Rule of Law Unit and expressed the hope that each would continue to play a central role in strengthening the rule of law through technical assistance and capacity-

building, particularly in conflict and post-conflict societies. Efforts should also be devoted to strengthening the Group's role in identifying areas of common concern and in facilitating cooperation and coordination, to which end the provision of appropriate financial, technical and administrative resources was essential. As for the Unit, it should be funded through the regular budget, failing which its operational ability would be unduly hampered.

72. The 2005 World Summit Outcome document was a landmark achievement in the development of the rule of law at the national and international levels. It was incumbent on Member States to cooperate in ensuring achievement of its stated goals in order to give true meaning to the rule of law, which encompassed a range of issues that could be addressed only through a coherent United Nations system.

73. **Mr. Yacub** (Qatar) similarly commended the efforts of the Rule of Law Coordination and Resource Group and the Rule of Law Unit to promote the rule of law at the national and international levels, which was an aim of the Organization and required concerted action. Coordination among rule of law entities, together with the universal application of international law and the avoidance of double standards, was vital; any violation should be immediately condemned and agreed criteria as to the main elements constituting the rule of law should be established. That goal was, however, unachievable in the absence of a universally applicable security system, an additional effect of which would be to instil the principle of democracy.

74. At the international level, the rule of law should be derived from the Charter of the United Nations in particular and the principles of international law in general. The United Nations should set a good example and boost its credibility by ensuring that its organs did not trespass beyond their own mandates. At the national level, the necessary political will would come only through faith in the rule of law as a basis for socio-economic progress and the maintenance of international peace and security. Qatar's Constitution made explicit provision for the rule of law as the basis for governance, encompassing such principles as compliance with its provisions and with those laid down in the international instruments, the separation of powers, equality and the protection of individual rights and freedoms.

75. **Mr. Christian** (Ghana) welcomed the rule of law activities carried out to date by the United Nations system, as well as the candid assessment of shortcomings contained in the Secretary-General's reports. The inventory of rule of law activities (A/63/64) made it clear that much work was being done in relation to capacity-building in Member States, but he agreed that appropriate tools were needed in order to evaluate the impact of such programmes.

76. In June 2008, at the initiative of his Government, the Treaty Section of the Office of Legal Affairs, in cooperation with the Commission of the Economic Community of West African States (ECOWAS) and the United Nations Development Programme (UNDP), had organized an ECOWAS regional capacity-building workshop on treaty law and practice in Accra, focusing on the domestic implementation of treaty obligations in the areas of trade, human rights, transnational organized crime and the environment. The workshop had highlighted the need to focus on the capacity of national stakeholders to implement the substance of international agreements, rather than simply going through the mechanics of becoming a State party. It had also demonstrated the value of coordination: all the entities involved had "delivered as one", thus saving time and resources. However, coordination was not enough. He hoped that the Rule of Law Unit, together with the Treaty Section of the Office of Legal Affairs and UNDP, would assess the impact of the workshop on the participants and their respective States.

77. The Accra workshop had also underscored the need to seek a coalition of partners outside the United Nations system in support of rule of law activities. Owing to a shortage of funds, participation in the workshop had been restricted to legal experts from ministries of justice and foreign affairs; officials from other relevant sectors had been excluded. Financial institutions outside the United Nations system should appreciate that the rule of law went beyond legality and, like good governance, served as a tool for development; it represented a culture in which free and fair elections, human rights, fair trade and the equitable use of resources prevailed.

78. The joint strategic plan for 2009-2011 being developed by the Rule of Law Coordination and Resource Group should incorporate a strategy to strengthen related activities already being undertaken by regional organizations. His delegation looked forward to the opportunity to comment on the first

draft of the plan before it was finalized and implemented.

79. Evolution of the notion of the “common heritage of mankind” underscored States’ interdependence. In 2006, the President of the International Court of Justice had stated that with very few exceptions, States had complied with decisions of the Court, and that the best way for the Court to protect and promote the rule of law was to continue to apply international law meticulously and impartially to the disputes that came before it. As the Secretary-General had stated in the introduction to his annual report on the work of the Organization in 1961 (A/4800/Add.1), the rule of law — understood under the Charter to include the principles of justice, equity and objectivity — went far beyond the sphere of competence of the Court and must permeate the behaviour of all organs, including the General Assembly and the Security Council. The rule of law had deep historical roots in efforts to curb anarchy in national and international life and thus should be applicable without distinction or discrimination, with one measure and one standard valid for the strong as well as for the weak.

80. Although some progress had been made, much more remained to be done in order to entrench the rule of law. His delegation favoured the idea of holding a conference on international law and the rule of law, with the possible aim of adopting a seminal declaration on the principles and purposes of the rule of law at the national, regional and international levels.

81. The Government and people of Ghana were making steady progress in entrenching democracy on the basis of the rule of law and were also contributing to the promotion of the rule of law and good governance at the regional and international levels. Ghana had been the first country to be reviewed under the African Peer Review Mechanism because of its conviction that in peace times, the rule of law and good governance had to be nurtured as a culture of life in a democratic society and a mechanism for conflict prevention and development. That process implied respect for judicial independence, freedom of the media and human rights, and creation of the necessary conditions for transparent and accountable governance at all levels of society.

82. **Mr. Gouider** (Libyan Arab Jamahiriya) said that his country supported the strengthening of United Nations activities in the interests of justice and the rule

of law. To that end, a political system in which legislative and executive authority lay with the people should be established as appropriate to each State, without interference. National laws should incorporate the principles of international law, particularly with regard to important issues relating to the maintenance of international peace and security, such as counter-terrorism. In the same vein, domestic law should brook no abuse of the right of political asylum and should encompass adequate safeguards against, inter alia, bribery, corruption and money-laundering.

83. His delegation was unhesitatingly supportive of all United Nations activities aimed at strengthening the rule of law at the international level. As at the national level, however, no rule of law could be established without a review of the principles on which the Organization operated with a view to guaranteeing respect for the equal sovereignty of States and for territoriality of laws; fair representation on the Security Council and a balanced increase in its membership; the transparency and fairness of Council resolutions, which should also show due regard for the purview of other United Nations bodies, notably the General Assembly; and compliance with decisions of the International Court of Justice, as well as recognition of the value of its advisory opinions.

84. **Mr. Adi** (Syrian Arab Republic) said that the discussion was extremely germane in light of the current need to affirm the purposes and principles of the United Nations since the Security Council continued increasingly to infringe upon the mandate of the General Assembly. During the 2005 World Summit, the General Assembly had affirmed the need for universal compliance with the rule of law at the national and international levels in view of the appallingly ubiquitous violation of those purposes and principles through the occupation of territory belonging to sovereign States and new phenomena that included pre-emptive war and the linkage of security, development and democracy with human rights. In that regard, unilateral measures had badly affected not only the rule of law at the international level, but also international relations.

85. At the national level, the rule of law assumed a variety of forms as a function of the unique cultural heritage of each individual State. It was therefore a subject to be addressed with great caution, requiring the development of means for the provision of technical and financial assistance with a mind to

political, historical and cultural specificities. Nor was it to be exploited as a tool for political pressure or a pretext for interference in the affairs of a State or a reduction of its sovereignty. The rule of law was also intertwined with human rights and democracy; all of them should be applied and strengthened in a balanced manner, with Member States fulfilling their obligations to promote and protect human rights and fundamental freedoms.

86. Despite progress achieved, the rule of law at the international level was far from established as far as international relations were concerned; the strong continued to impose their will on the weak owing to the ineffectiveness of deterrents and failure to apply the principle of the equality of States. In conclusion, he welcomed the establishment of the Rule of Law Unit, for which special mechanisms should be provided, and stressed that States should be kept informed of its activities.

87. **Mr. Simonoff** (United States of America) said that his delegation welcomed the opportunity to discuss ways of advancing adherence to the rule of law at the national and international levels with a focus on practical measures. He especially commended the Secretary-General for his inventory of current rule of law activities of the United Nations (A/63/64). His delegation strongly supported initiatives that promoted respect for the rule of law, which played a critical role in fostering stability and order in relations between and within States. Not only was the rule of law vital to promoting peace and security; it also played a significant role in facilitating cooperation in a wide range of areas such as trade and development, protection of the environment and promotion of human rights and fundamental freedoms.

88. The United Nations had done much to promote the rule of law at the national and international levels. His delegation welcomed the progress made by the Rule of Law Coordination and Resource Group and the Rule of Law Unit and expected those entities to promote effective coordination of the myriad of rule of law activities performed by the United Nations system. At the same time, States had a key role to play in promoting respect for and implementation of the law at the national and international levels. For example, it was important that all parties to bilateral and multilateral treaties implemented their treaty obligations. In addition, States could focus on transitional justice at the national level as a means of

assisting societies that were seeking to emerge from conflict.

89. His Government was proud of its integrated and strategically focused rule of law assistance programmes, which were directed towards a broad range of countries. The Bureau of International Narcotics and Law Enforcement Affairs of its Department of State assisted countries in their efforts to strengthen their criminal justice institutions and invested over US\$ 210 million each year in such programmes worldwide. The United States Agency for International Development (USAID) was currently investing over US\$ 170 million in more than 60 countries to promote justice systems and court reform. Such assistance, when combined with contributions from other States and international organizations, contributed significantly to promotion of the rule of law at the national level.

90. In Afghanistan, for instance, the United States Government was the largest contributor to justice sector reform efforts, investing US\$ 92 million in foreign assistance programmes and providing more than 130 in-country justice advisers. In addition to the programmes funded by the Department of State, the American legal community also played a role in justice sector development through the Public-Private Partnership for Justice Reform in Afghanistan. The Partnership, which had been launched by the United States Secretary of State and the Afghan Attorney-General in December 2007, allowed United States law firms and law schools to support low-cost, high-impact projects that promoted, inter alia, women's rights, access to justice, legal aid and professional development.

91. **Mr. Al-Mansoor** (Kuwait) said that international law and the Charter of the United Nations were key to confronting the challenges faced by the international community. At the national level, his country enjoyed a written Constitution providing for a democratic system in which the people were the source of the legislative, executive and legal powers. They also benefited, inter alia, from the separation of those powers; from guaranteed rights and obligations, without distinction; from freedom and equality; and from the freedom to form unions and associations in accordance with domestic law.

92. At the international level, Kuwait upheld the principles of international law through its maintenance

of international peace and security non-interference in the affairs of other States and settlement of disputes by peaceful means. The United Nations should assume its responsibilities and firmly implement the principle of the rule of law by finding solutions to conflicts between international and national law; listing the proposed means of coordination for avoiding contradictions between agreements at the international and regional levels; and identifying means of increasing legal awareness and expanding the scope of international conventions.

93. **Ms. Cabello de Daboin** (Bolivarian Republic of Venezuela) said that her country was firmly committed to the rule of law, which was fundamental to the maintenance of international peace and security and the achievement of economic development and social progress. Human rights, the rule of law and democracy were interlinked and formed part of the universal and indivisible core values and principles of the United Nations.

94. In accordance with the fundamental principles of its Constitution, the Bolivarian Republic of Venezuela had become a genuinely democratic and social State governed by the rule of law, whose supreme values were life, liberty, justice, equality, solidarity, democracy, social responsibility, human rights, ethics and political pluralism. The Constitution was the supreme law, and all persons and entities that exercised governmental authority were subject to it. It also enshrined the principle of equality before the law and outlawed all forms of discrimination. Other domestic laws established the legal and administrative guarantees necessary to ensure that equality was real and effective, including positive discrimination in favour of marginalized or vulnerable persons or groups.

95. Her country attached great importance to international law as one of the sources of domestic law. The international human rights conventions and other instruments had been incorporated into domestic law and were regarded as having equal authority with the Constitution. Where their provisions were more favourable, they took precedence over national legislation. International agreements aimed at promoting the common development of Latin American and Caribbean nations and the well-being and collective security of their peoples were directly applicable at the national level and also took precedence over domestic law. National referendums

were used to take decisions on the adoption of international agreements which might compromise national sovereignty or which provided for the transfer of competences to supranational bodies. Thus, international agreements and domestic law were being steadily harmonized.

96. The international system should be governed by international law and the rule of law, based on respect for the principles of independence and equality among States, self-determination and non-interference in the internal affairs of States, as well as respect for human rights and promotion of the peaceful settlement of international disputes. Her delegation welcomed the inventory of rule of law activities of the United Nations prepared by the Secretary-General (A/63/64).

97. Owing to the current composition of the Security Council, the functioning of the United Nations in many cases did not reflect the existence of the rule of law. There must be genuine democracy within the Organization if the rule of law were to prevail in the international system. Only by reforming and democratizing the organs of the United Nations would it be possible to strengthen the rule of law at the international level on the basis of the equitable enforcement of international law.

The meeting rose at 5.55 p.m.