



# General Assembly

Sixty-fourth session

Official Records

Distr.: General  
12 November 2009

Original: English

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## Sixth Committee

### Summary record of the 9th meeting

Held at Headquarters, New York, on Wednesday, 14 October 2009, at 3 p.m.

*Chairman:* Mr. Benmehidi . . . . . (Algeria)  
*later:* Mr. Böhlke (Vice-Chairman) . . . . . (Brazil)

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Agenda item 83: The rule of law at the national and international levels (*continued*)

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*The meeting was called to order at 3.15 p.m.*

**Agenda item 83: The rule of law at the national and international levels** (*continued*) (A/64/298)

1. **Mr. Badji** (Senegal) said that a just and effective international order based on the rule of law was essential, given the significant challenges posed by the promotion of peace, justice and sustainable development; the various crises with which the world was contending; and the myriad instances of non-compliance with international obligations. As the report of the Secretary-General (A/64/298) indicated, much remained to be done to fortify effective multilateral cooperation based on the rule of law, progress to that end to date notwithstanding.

2. The success of efforts to promote the rule of law at the international level depended on ensuring strict compliance by States with generally accepted rules and principles, particularly those embodied in the Charter of the United Nations, and those arising from obligations under multilateral treaties and from international law in general. Adherence to international law and the rule of law were inextricably linked, and securing them constituted the core mission of the United Nations.

3. The important role of the International Court of Justice, the International Law Commission and the United Nations Commission on International Trade Law in fostering compliance with the rule of law should be strengthened. The International Court of Justice played a particularly decisive role in that regard, through its work in promoting peaceful relations among States and through its judgements and decisions.

4. Given the cross-cutting nature of the issues and the diversity of actors involved, the coordination provided by the Rule of Law Coordination and Resource Group and the Rule of Law Unit was to be commended.

5. It was also necessary to encourage mediation and strengthen mechanisms for managing the peace process, from preventive diplomacy to peacemaking to peacebuilding.

6. **Mr. Khammoungkhoun** (Lao People's Democratic Republic) said that his delegation supported the work of the United Nations aimed at advancing the rule of law in accordance with the Charter and the principles of

international law. His country's strong commitment to the rule of law was demonstrated by its adherence to the Charter, international law and its treaty obligations. For example, at the 2009 United Nations treaty event it had deposited instruments of ratification of three key United Nations instruments, namely the International Covenant on Civil and Political Rights, the Convention on the Rights of Persons with Disabilities and the Convention Against Corruption. In addition, his country had been among the first to sign and ratify the United Nations Convention on Cluster Munitions.

7. At the national level, Laos had made considerable progress under its Legal Sector Master Plan towards enabling it to be governed by the rule of law by the year 2020, for example, by adopting more than 90 laws and ensuring their effective implementation and by strengthening legal sector institutions, including the judiciary, law enforcement agencies and the Lao Bar Association. The development of the rule of law at the national level should take into account the traditions and characteristics of the country concerned.

8. **Mr. Rodiles** (Mexico) said that although the concept of the rule of law was relatively well defined at the international level, an effort was needed to identify its components more clearly. The essential elements were the principles that granted general effectiveness to international law as a whole. The *pacta sunt servanda* principle, in connection with article 27 of the 1969 Vienna Convention on the Law of Treaties and Article 103 of the Charter, fulfilled that function. The task could not be concluded until the draft articles on the international responsibility of States, which the International Law Commission had been developing for several decades, were finalized, because they were essential for the adjudicatory function of international law. The discussions held during the current session would constitute an excellent opportunity to complete that instrument.

9. The rule of law could not be conceived without effective jurisdictional mechanisms to settle peacefully any disputes that arose in the application or interpretation of international law by States. Thus, it was urgent to enhance the role performed by the international courts by strongly supporting the submission of disputes to their respective jurisdictions and by full compliance with their rulings. Mexico joined the delegations that had insisted on the need to promote the compulsory jurisdiction of the International Court of Justice.

10. Disputes between States arose from different interpretations of norms of international law. If such disputes could result in situations that constituted a threat to peace, breach of the peace, or act of aggression, it was logical to suppose that the decisions taken by the Security Council in accordance with Article 39 of the Charter, and any actions that it decided to take, were grounded in international law. The Security Council played a vital role in relation to the fundamental purpose of the United Nations and had developed various useful mechanisms enabling it to fulfil that role. In recent times, the working methods for sanctions regimes had been improved substantially in an effort to find a balance between effectiveness and legitimacy. Nevertheless, further work was required to ensure that such regimes, especially those concerning “targeted sanctions”, were adapted to the standards of due process, a matter inherent to the rule of law.

11. Mention of the rule of law at the international level led to a discussion of the rule of law at the global or transnational level. Recent years had seen an accelerated growth in global regulation of an ever-increasing range of global matters and situations. Evidently, the search for effective solutions to serious and shifting problems was a logical consequence of the globalized world, where transnational networks and ad hoc coalitions abounded. However, in keeping with its legal system and culture and what it expected of a fair and effective international legal system, Mexico considered that the coherence, predictability, and transparency of all transnational and international norms was very important. Hence, the requirements of certainty and accountability imposed by the rule of law should not be abandoned in the search for innovative normative solutions.

12. Over and above the essential interdependence of the two dimensions of the rule of law, international law had been a deciding factor in the construction and consolidation of the rule of law at the national level, especially in the area of human rights. When the States Members declared that one of the fundamental purposes of the United Nations was the creation of conditions under which justice and respect for the obligations arising from treaties and other sources of international law could be maintained, they paved the way to the rule of law in international relations and reaffirmed the subjection of all international relations to the rule of law. The Committee should continue exploring the foregoing interpretation of the rule of law

at the international level in a dialogue among Member States and with the relevant departments of the United Nations.

13. **Ms. Otukoya** (Nigeria) said that although the Rule of Law Coordination and Resource Group and the Rule of Law Unit had made progress in ensuring the overall coordination and coherence of United Nations engagement on rule of law activities, much remained to be done to ensure that United Nations leadership at the country level placed the rule of law at the centre of the Organization’s initiatives in that regard. That was particularly true in African countries, where there was an urgent need for capacity-building.

14. The rule of law at the international level was intrinsically linked to the rule of law at the national level and its promotion required the commitment of all Member States to the principles embodied in the Charter and other international instruments. Her country’s unflinching commitment to international peace and security and respect for the rule of law at the international level had been demonstrated by such measures as the non-belligerent manner in which it had responded to the ruling by the International Court of Justice on the *Land and Maritime Boundary between Cameroon and Nigeria* case involving the Bakassi Peninsula. Nigeria called upon all States to emulate that example. Her country also worked with other countries in addressing issues affecting the African continent, such as peace, stability, governance and development, and had begun to ratify and incorporate into its domestic law all treaties, conventions and agreements to which it was a party.

15. Given the inextricable link between the rule of law and human rights in all their ramifications, more incisive action was required to address the special needs of Africa, the least developed countries and small island developing States. The international community should ensure a global balance in all aspects of development, including the rule of law, in particular in the wake of the recent global financial crisis, to which no part of the world was immune.

16. **Mr. Quezada** (Chile) said that the rule of law was a cross-cutting issue in national and international relations and in all the work of the United Nations. Relations among the bodies of the United Nations system and the performance of their functions were also subject to legal norms and procedures. Accordingly, Chile welcomed the new system for the

administration of justice within the Organization, which included courts with highly qualified professional judges and represented an important step in making the system compatible with the relevant international standards, especially with regard to due process. Similarly, it appreciated the Organization's efforts to combat impunity in relation to the criminal accountability of its officials and experts on mission.

17. Regarding the promotion of the rule of law at the international level, Chile believed firmly in an international legal system that could prevent and punish violations of international law, in order to ensure the protection of human rights and encourage the peaceful settlement of international disputes. The Charter of the United Nations was the main instrument of the international legal order and all States should be subject to its principles. Those principles also supported the rule of law at the national level, in particular, respect for human rights, which was a pillar of the rule of law and whose violation could affect not only the inhabitants of a specific country, but the entire international community.

18. Strengthening the rule of law at the international level called for the reinforcement of the Charter-based mechanisms for the peaceful settlement of disputes and the work of the specialized, regional and international courts and, above all, the International Court of Justice, should be highlighted in that regard. Chile had supported General Assembly resolution 63/3 requesting an advisory opinion of the Court on whether the unilateral declaration of independence by the provisional self-government institutions of Kosovo was in accordance with international law.

19. In view of its recent history, Chile was extremely interested in efforts to combat the impunity of those responsible for serious international crimes and had recently ratified the Rome Statute of the International Criminal Court, which was the most progressive expression of the international criminal justice system.

20. Given the interdependence of the rule of law at the international and national levels, the actions taken by the Organization to support Member States' compliance with their obligations at both the international and national levels were crucially important. In many cases, the latter involved prior incorporation of the international legal norms into the national legal system, a process in which international

cooperation, coordinated by the United Nations, could play a significant role.

21. **Mr. Banerjee** (India) welcomed the initiation of the rule of law dialogue with Member States and the Joint Strategic Plan, and said that promotion of the rule of law at the international level was a concept ingrained in the Charter of the United Nations, supplemented by the various branches of international law. Universally established and applicable, the rules and standards thus laid down accordingly also served as the normative basis for United Nations activities in support of justice and the rule of law at the international level and were further strengthened by the international justice system in place.

22. Promotion of the rule of law at the international level also demanded implementation at the national level of obligations entered into under international treaties and agreements, a requirement rigorously pursued in his country, where enforcement of the rule of law was assured by its justice system. In developing countries, support for capacity-building to that end was crucial, and had the additional benefit of strengthening the rule of law at the international level that was in turn crucial to addressing global challenges, including in the areas of democracy, human rights, sustainable development and the promotion of peace and justice, particularly in post-conflict societies. On that score, the United Nations had played a commendable role. In order to address such issues as human rights violations, however, it was essential to strengthen the rule of law component of its peace missions through, inter alia, the establishment of truth and reconciliation mechanisms, the provision of international rule of law assistance and the introduction of appropriate legal and institutional arrangements, in addition to capacity-building and training for local lawyers, judges and other experts. With those and other relevant measures in place, the potential success of any peace mission would be enhanced.

23. In order to avoid duplication of effort and minimize waste of resources, it was furthermore essential to improve coordination and coherence among other stakeholders engaged in promoting the rule of law at the national and international levels. To that end, strengthening of the Rule of Law Unit was an urgent matter, although its coordination functions should in no way be linked to policy issues under debate in other United Nations forums in the context of system-wide coherence. Within the United Nations,

transparency, fairness and adherence to the rule of law would also be promoted by ensuring that none of its organs infringed upon the mandate of any other. The strengthening of institutional policies and processes would similarly promote a just and effective international order based on the rule of law.

24. **Ms. Ross** (United States of America) said that the rule of law was not only vital to promoting peace and security, it was also instrumental in facilitating trade and development; democracy and good governance; global health; protection of the environment; and the promotion of human rights and fundamental freedoms. Although countries rightly relied on the tools of international dispute resolution, more often than not there was no need to resort to it, given the invisible web of international law underpinning commerce, diplomacy and daily international interaction.

25. The progressive development of international law should be promoted creatively and flexibly in areas needing improvement or further refinement or where gaps should be filled. In some cases a global multilateral treaty was not needed and sometimes a regional, bilateral or even a non-binding understanding could best address a particular need.

26. Her country had reinvigorated its commitment to the rule of law at the international level, including in the arena of international humanitarian and human rights law and through its participation in the work of multilateral institutions.

27. In its first week in office the Obama administration had mandated the closure of the Guantanamo Bay detention facility, instituted searching reviews of United States detention and interrogation policies, closed secret detention facilities of the Central Intelligence Agency, and made all interrogations subject to the widely accepted guidelines of the United States Army Field Manual.

28. In July 2009 the United States Permanent Representative to the United Nations had signed the Convention on the Rights of Persons with Disabilities, the first human rights treaty signed by her country in over 20 years, and it was expected that President Obama would submit the Convention to the Senate for its advice and consent to ratification. The United States had joined the Human Rights Council in May 2009, thereby signalling its intent to participate constructively with the Council's members in the promotion and strengthening of human rights.

29. In February 2009 the United States had been instrumental in leading efforts in the Governing Council of the United Nations Environment Programme to begin negotiations designed to lead to a global, legally binding instrument addressing the challenges posed by mercury.

30. Robust participation by the United States in multilateral institutions signalled her country's recognition of their potential to contribute to the welfare of individuals worldwide, including through practices such as the adoption and implementation of resolutions that affected the complex web of international law.

31. **Mr. Olenga** (Democratic Republic of the Congo) highlighted the synergy that existed between respect for the rule of law at the national and international levels. 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 treaty ratification process 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.

32. 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 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 restoration of the rule of law.

33. Primacy of the rule of law was of paramount importance in his country, a post-conflict State. In dealing with such abhorrent acts as the sexual exploitation of women and children and the use of rape as a tool of war, his country had seen first-hand the irreplaceable role that justice played in achieving social harmony, national reconciliation, peace, security and stability. By pursuing justice, the country had

restored peace in Ituri and North Katanga, and intended to do so throughout its territory, preferably through national justice but, if necessary, through international justice. It supported the international courts, including the work of the International Criminal Court, with which his Government was cooperating fully.

34. His 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. 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.

35. The aim of the United Nations was to find the most effective ways to help Member States comply with their international obligations, apply international norms and standards at the national level and, even more important, strengthen their political institutions, all with a view to building an effective and just national and international order. In that connection, his country was grateful for the assistance it had received from the international community for the organization of elections in 2006, which had led to the adoption by the Congolese people of the Constitution of 18 February 2006.

36. His country invited other States to incorporate human rights norms — including the independence and impartiality of the judicial system — into their national legislation and to guarantee their primacy, so that all States would be able to ensure an acceptable level of respect for democracy and thus promote development.

37. The promotion of the rule of law and of other universal values at the national and international levels was crucial for sustained economic growth, sustainable development, the elimination of poverty and hunger and the protection of all human rights and fundamental freedoms.

38. *Mr. Böhlke (Brazil), Vice-Chairman, took the Chair.*

39. **Mr. Gaumakwe** (Botswana) said that the Charter of the United Nations remained the cornerstone upon

which the purposes and principles for maintaining international peace and security were based, in conformity with international law. All States should strive to attain the highest ideals of the Charter by doing more to cultivate the norms and standards of international law, and those who governed must exercise power in accordance with the rule of law.

40. Respect for and adherence to the rule of law at the international level played a major role in ensuring law and order, peace and security, social and economic progress and the full protection of human rights for all. Stronger multilateral cooperation based on the rule of law, and adherence to the principles of justice and fairness, would enable States to confront global challenges such as terrorism, armed conflict, human rights violations and violence against vulnerable groups, including women and children.

41. Although notable success had been achieved in the promotion and application of the rule of law, particularly with respect to dispute settlement and conflict management, deficits in those areas remained. As the only multilateral platform for the progressive development and codification of international law, the United Nations should always persist in consistently applying relevant provisions of the various United Nations conventions in order to protect mankind from anarchy and self-destruction. For example, the full complement of legal frameworks, including the United Nations Convention on the Law of the Sea, should be used to combat piracy and banditry off the coast of Somalia.

42. His delegation fully supported the call by the Secretary-General for Member States to cooperate with existing international institutional mechanisms established to support the rule of law. Such cooperation would strengthen the global judicial framework to enable it to deliver justice in a fair and transparent manner. His country was deeply committed to its obligations under international law, including its responsibilities as a party to the Rome Statute of the International Criminal Court. Any lack of respect for the rule of law should be reviewed by national courts as well as international legal forums such as the International Criminal Court and the International Court of Justice.

43. **Mr. Sharifov** (Azerbaijan) said that the rule of law was fundamental to the maintenance of international peace and security, economic development and social

progress. His delegation strongly supported the work of the United Nations on the rule of law at the national and international levels, which were complementary and interdependent, in the interest of peaceful coexistence among all States.

44. The United Nations should increase its efforts to ensure respect for the principles of international law without distinction, and resolutions of the Security Council and General Assembly must not be implemented selectively. His delegation fully agreed with the Secretary-General (A/64/298) that in many areas, violations of international law were still too frequent, means of accountability too few and political will to ensure compliance too weak.

45. In the 2005 World Summit Outcome, Heads of State and Government had reaffirmed the vital importance of an effective multilateral system, in accordance with international law, in order to better address the multifaceted and interconnected challenges and threats confronting the world and had called for efforts to uphold the sovereign equality of all States and respect for their territorial integrity and political independence. Nevertheless, armed conflict, military aggression and foreign occupation by single States persisted, in contravention of the norms and principles of international law. Violations of international law must be addressed through peaceful means and international dispute settlement mechanisms should be strengthened.

46. His delegation agreed with the Secretary-General that for any conception of the rule of law at the international level, peaceful means to address alleged violations of international law were essential and that it was necessary to strengthen international dispute settlement mechanisms. However, even with the strongest such mechanisms, non-compliance could impede the establishment and maintenance of the international rule of law. The Manila Declaration on the Peaceful Settlement of Disputes of 1982 had stipulated that States parties to a dispute should continue to observe in their mutual relations their obligations under the fundamental principles of international law concerning the sovereignty, independence and territorial integrity of States, as well as other generally recognized principles and rules of contemporary international law.

47. The United Nations maintained a long-standing policy of opposing amnesties for war crimes, crimes

against humanity, genocide and serious violations of international humanitarian law. However, it was not enough to keep repeating that it was necessary to develop and respect international law and that States should utilize international conflict settlement mechanisms. Action to achieve those objectives was imperative.

48. Particular consideration must be given to the implications for the protection of civilians in armed conflicts aggravated by population displacements, foreign military occupation and attempts to change the demographic balance in occupied territories. The international community must never tolerate a culture of impunity and those responsible for breaches of international humanitarian law or international human rights law must be brought to justice.

49. His delegation appreciated the readiness of the Rule of Law Coordination and Research Group and the Rule of Law Unit to enhance approaches to rule of law activities aimed at strengthening the capacity of Member States to end impunity by consolidating the legacy of international and national efforts to date.

50. **Mr. Momen** (Bangladesh) said that, pursuant to its Constitution, his country was committed, inter alia, to respect for international law and the principles embodied in the Charter of the United Nations. The rule of law at the international level had deep roots in the Charter and in major international declarations, including the 2005 World Summit Outcome, and had been further strengthened by multilateral treaties adopted by the General Assembly and endorsed and ratified by Member States.

51. The United Nations played a critical role in broadening the areas of international cooperation aimed at enabling Member States, particularly developing countries, to implement more effectively such treaties and the relevant bodies of international law. Assistance with capacity-building in that area was of pressing importance. Measures to increase the number of States parties to international instruments should be enhanced, and the active role played by the Secretary-General in promoting that objective through the organization of treaty events was commendable.

52. He emphasized the indispensable role played by the International Court of Justice and other international tribunals such as the International Tribunal for the Law of the Sea, and said that his country had recently submitted a maritime dispute

matter to the latter entity pursuant to annex VII of the United Nations Convention on the Law of the Sea.

53. Increased contributions to the Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice were needed, and Member States should be more consistent in implementing advisory opinions of the Court.

54. His delegation welcomed the inclusion of rule of law and transitional justice initiatives in the mandates of recent peacekeeping and peacebuilding missions. As the second largest troop- and police-contributing country, Bangladesh reaffirmed its unwavering commitment to global efforts to establish the rule of law worldwide, particularly in countries in and emerging from conflict.

55. The Rule of Law Coordination and Resource Group and the Rule of Law Unit should disseminate information regarding rule of law activities, coordinate technical assistance, identify new trends in international law and study areas for follow-up action by the Sixth Committee with respect to the 2005 World Summit. They should not duplicate work done elsewhere. The efforts under way to prepare an inventory of current United Nations rule of law activities were to be commended.

56. His delegation fully agreed with the Secretary-General that solutions to current global challenges — such as climate change, forced displacement, counter-terrorism, armed conflict and gross human rights violations, and the economic downturn — all had important rule of law dimensions, and hoped that further discussion on those issues would make it possible to establish a global system fully governed by the rule of law.

57. **Ms. Valenzuela** (El Salvador) said that her country's new Government had begun to deepen and strengthen its democracy and was guided by respect for the rule of law at the national and international levels. Consequently, its foreign policy was based on a commitment to the peaceful settlement of disputes, the primacy of international law, the promotion and protection of human rights and compliance with internationally agreed obligations, in accordance with the Charter of the United Nations.

58. The new Government had pledged to uphold the Constitution, under which the State was required to

develop and protect democratic institutions based on the rule of law, respect for the principle of legality, and the independence of and cooperation between the legislative, executive and judicial branches of Government. The Government was also required to strengthen national institutions, particularly those established pursuant to the Peace Accord.

59. The rule of law was the most powerful tool for guaranteeing peace and development worldwide, and her country was a party to a number of multilateral treaties adopted as a result of the codification and progressive development of international law under the auspices of the United Nations. She reiterated her delegation's support for reforming the principal organs of the Organization, a step that would have a positive impact on the consolidation of the rule of law within States parties and at the United Nations itself.

60. **Mr. Al-Khurainej** (Kuwait) said that the matters discussed in the Secretary-General's report (A/64/298) was of the utmost importance for ensuring not only international peace and security but also justice and equality. Similarly, respect for the Charter of the United Nations and for international law was essential when confronting the challenges and threats facing the international community, as was the obligation to protect various rights and freedoms. Under his country's constitutional democracy, the rights and duties of citizens were guaranteed, as was respect for the rule of law by virtue of the separation of the three branches of government. A significant strengthening of democracy and gender equality had recently been achieved, moreover, with the first-ever election of women candidates to parliament.

61. At the international level, Kuwait complied with the principles, laws and treaties that together promoted the rule of law through, for instance, non-interference in the affairs of other States and the peaceful settlement of disputes. It should be stressed that ongoing violations of international law weakened the political will to ensure such compliance, as affirmed by the report of the United Nations Fact-Finding Mission on the Gaza Conflict (A/HRC/12/48), concerning the violations of international humanitarian and human rights law and the war crimes and crimes against humanity perpetrated by Israel during that conflict. More efforts were therefore needed to promote respect for the rule of law at the international level, without selectivity. To that end, it was essential to find solutions to conflicts arising between principles of



international and domestic law; to strengthen international dispute resolution mechanisms; to propose means of coordination with a view to avoiding conflict between international conventions at the international and regional levels; and to identify ways of raising awareness of international conventions and ensuring their implementation.

62. **Mr. Maridadi** (United Republic of Tanzania) expressed strong support for the United Nations efforts to promote the rule of law, compliance with which was a sine qua non for world peace, stability and order. That being so, his country continually sought to comply with its international treaty obligations, including reporting requirements. It had also taken steps to impart information on treaty law to all sector ministries in order to ensure compliance with the principles articulated in the treaties to which it had acceded. He urged similar compliance by other States with their obligations in the interest of maintaining international peace and order but also emphasized the need in that context for international assistance to developing countries. In conclusion, he welcomed the coordination and coherence role of the Rule of Law Coordination and Resource Group, as well as the Joint Strategic Plan for 2009-2011.

63. **Mr. Christian** (Ghana) expressed appreciation for the United Nations efforts to find ways of better supporting Member States in their quest to build a just world order based on the rule of law, the breakdown of which was a proven factor in the outbreak of civil war and international conflict. Respect for the Charter of the United Nations and the principles of justice and international law was vital to sustained global peace and security and to strengthening the rule of law at the national, regional and international levels, including through national constitutions, municipal laws and international instruments covering such matters as human rights, criminal justice and good governance. The rule of law at both the national and international levels would be strengthened by devoting greater attention to supporting regional initiatives and to redoubling efforts to ensure universal participation in international treaty regimes.

64. The Ghanaian Constitution served as a veritable framework for strengthening the rule of law and appropriate legislation had been passed accordingly to promote, inter alia, accountability, human rights and the independence of the judiciary and the media. At the regional level, Ghana continued to support the African

Peer Review Mechanism, which was designed to encourage the highest standards in attainment of the rule of law at the national level. In its experience, the creation of an enabling environment for independent and impartial civil society groups promoted transparency in governance, consequently strengthening the rule of law. Ghana stood ever ready to support the rule of law activities outlined in paragraphs 97 and 98 of the Secretary-General's report (A/64/298), the impact of which at the national and international levels should be subject to appropriate monitoring and evaluation.

65. **Mr. Charles** (Trinidad and Tobago) said that strengthening the rule of law at the international level was vital to addressing effectively such global challenges as climate change, terrorism and the illicit trade in arms and narcotics. The United Nations played a commendable proactive role in that connection, notably through the work of the Rule of Law Coordination and Resource Group, supported by the Rule of Law Unit. The Caribbean region, for instance, had benefited under the Joint Strategic Plan from training for officials responsible for the implementation of treaty obligations at the national level, which was also critical to safeguarding the rule of law at the international level. The United Nations should therefore continue to focus on promoting the interdependence and mutually reinforcing relationship between the rule of law at both those levels, which would additionally enhance its credibility as a promoter of that fundamental legal principle. In that regard, the establishment of international criminal institutions to bring to account those responsible for the commission of serious crimes of an international nature was one particularly outstanding example of concrete multilateral action in pursuit of justice and promotion of the rule of law. Similarly, the pacific settlement of disputes was essential for the maintenance of the rule of law at the international level. In that context, his region had made every use of treaty-based judicial institutions to address a wide range of maritime-related issues in the area of public international law.

66. Despite all those valiant efforts, however, observance of the rule of law was affected by such failures as the lack of a comprehensive convention to combat the scourge of terrorism, from which no country was immune. He nevertheless expressed confidence that the issue would be among those

resolved through the effective multilateral cooperation from which international law originated. For its part, his country had ratified various international conventions of relevance to consolidating the rule of law and sought in good faith to fulfil the obligations thus undertaken. It also called for the conclusion of a legally binding treaty designed to regulate the import, export and transfer of conventional weapons, which would help to combat the burgeoning illicit trade in small arms that had fuelled a rise in serious violent crime in the Caribbean region. Collective action would ensure that the rule of law, which Trinidad and Tobago was committed to upholding at both the national and international levels, was a living principle in the daily activities of the global community, founded on a commonly applicable set of rules.

67. **Mr. Wada** (Japan) welcomed the efforts to ensure the coordination and coherence of United Nations rule of law activities, which his country strongly supported and which could be further advanced by avoiding duplication and maximizing synergies. Japan also attached great importance to the role of international courts in strengthening the rule of law at the international level: it had accepted the compulsory jurisdiction of the International Court of Justice, and had contributed judges to the Court and to the International Tribunal on the Law of the Sea. Furthermore, it was the largest contributor to the budget of the International Criminal Court and continually sought to strengthen its support for the Court's human resources; it was ready to share its experience with any country considering accession to the Rome Statute. It also supported the activities of ad hoc international criminal tribunals in the context of its efforts to end impunity.

68. Regional frameworks played an important role in promoting the rule of law at the international level, one example being the African-Asian Legal Consultative Organization, the activities of which Japan had always keenly supported. In addition to providing technical assistance for the establishment of the rule of law in the developing countries of South-East Asia in particular, Japan contributed to the valuable work of the United Nations Audiovisual Library of International Law because the dissemination of international law through education was another key to strengthening the rule of law.

69. **Mr. Gouider** (Libyan Arab Jamahiriya) expressed appreciation for the United Nations activities

aimed at promoting the rule of law at the national level, but observed that the unimpeded establishment of a political system appropriate to each State was essential to the attainment of that goal. Domestic law should incorporate and implement the provisions of international law, in particular with regard to terrorism, corruption, money-laundering and refugee matters. Promotion of the rule of law at the international level, however, demanded a review of the practices and working methods of United Nations organs, which should be based on respect for the sovereignty and equality of States and should not eschew the principle of the territoriality of national jurisdiction in favour of a wide and arbitrary interpretation of the principle of universal jurisdiction. By the same token, compliance with the rulings of the International Court of Justice should be guaranteed and the value of its advisory opinions acknowledged. The number of Security Council members should be increased to ensure fair and balanced representation and Security Council resolutions must be transparent, just and compliant with the jurisdiction of other United Nations bodies, in particular the General Assembly. There was also a vital need to respect human rights and dispense with subjectivity and double standards in dealing with serious crimes and violations such as those addressed in the report of the United Nations Fact-Finding Mission on the Gaza Conflict (A/HRC/12/48).

70. **Mr. Alnaqbi** (United Arab Emirates) said that, despite United Nations and other efforts to foster the rule of law and assist States in achieving that goal, increasingly complex cases of violence, conflict and grave violations of international law continued to occur owing to the lack of political will to ensure compliance with the latter, a situation that also promoted impunity and lack of accountability. It was therefore important to strengthen international cooperation to ensure the rule of law by encouraging all diplomatic and other endeavours to curb practices involving the use or threat of force to undermine regional peace or political independence and to negotiate peaceful solutions to conflicts. It was similarly important to strengthen respect for all human and other rights through an effective multilateral system for dealing with the global challenges that also threatened efforts to achieve development and combat poverty, disease and environmental problems.

71. To that end, it was essential to promote equality and transparency in the structure and working methods

of the Security Council and ensure that sanctions were imposed in accordance with the principles of the Charter of the United Nations relating to collective security, without discrimination, selectivity or double standards. The efforts of United Nations bodies in such areas as conflict prevention, fact-finding and the rule of law should also be furthered, with a focus on reconstruction, institution-building and other measures aimed at helping post-conflict societies in particular to administer their internal affairs, always respecting their national sovereignty and specific cultural traditions. The performance of existing international judicial institutions and dispute-resolution mechanisms was another area requiring attention in the interest of strengthening the rule of law and full compliance with the decisions and advisory opinions issued by those bodies was vital. The linkage between the rule of law at the national and international levels should also be improved, notably through support for Member States in such matters as the administration of justice. Lastly, a comprehensive multilateral plan should be introduced to provide grass-roots training and education in the principles of international law and human rights, the aim being to ensure through the dissemination of such information that the rights of the marginalized in society were less easily violated.

72. The United Arab Emirates was firmly committed to the principles embodied in the Charter of the United Nations, in international law and in the various international instruments for the maintenance of international peace and security. Its Constitution was founded on justice and guaranteed, inter alia, fundamental freedoms and equal rights and duties for all. Those principles were further evidenced in and protected by the body of domestic law, which had recently been supplemented by a law against human trafficking; furthermore, the national judiciary was being strengthened. Bilateral agreements had been concluded in such areas as security, prisoner exchange and all forms of illicit trafficking and the country had acceded to the majority of international, regional and subregional instruments aimed at promoting the rule of law. It was extremely concerned, however, by the gross violations perpetrated by Israel in the Palestinian and Arab territories that it had occupied since 1967, in particular the war crimes and crimes against humanity in the Gaza Strip, which it strongly condemned. It therefore called for the lifting of the Israeli embargo on Gaza and for implementation of the recommendations contained in the report of the United Nations Fact-

Finding Mission on the Gaza Conflict (A/HRC/12/48), specifically those concerning the conduct of further investigations and submission of the report to the Security Council, the General Assembly and the Prosecutor of the International Criminal Court for action, including measures aimed at identifying and preventing the impunity of those responsible for such crimes.

73. **Mr. Park Chull-joo** (Republic of Korea) welcomed the progress made by the Rule of Law Coordination and Resource Group and said he looked forward to the launch of the United Nations rule of law website. The first annual system-wide meeting on the rule of law, held in June 2009, had been a valuable opportunity for all relevant entities in the United Nations to share and disseminate their expertise and experience in rule of law activities.

74. Multilateral cooperation based on the rule of law rested on commonly agreed principles embodied in the Charter of the United Nations and international law. The United Nations continued to play a key role in promoting the rule of law internationally, as well as at the national level. It was essential that any international dispute be peacefully settled, in accordance with Chapter VI of the Charter. As for the methods of peaceful settlement, there was no inherent hierarchy; States had the right to choose for themselves the method to adopt.

75. The overarching aim of rule of law activities in the United Nations was to find better ways to support Member States in meeting their international obligations and implementing international norms and standards. The Rule of Law Coordination and Resource Group and the Rule of Law Unit had a central role to play in that respect.

76. **Mr. Baghaei Hamaneh** (Islamic Republic of Iran) said that efforts to strengthen the rule of law at the national level could not be viewed in isolation from the rule of law at the international level. Programmes to promote the rule of law at the national level must embrace the principles of international law, especially respect for the sovereign equality of States and non-interference in their internal affairs, and the right of peoples to self-determination. Each nation had the sovereign right to establish its own model of the rule of law and administration of justice and to develop an efficient and fair legal system based on its own traditions and needs. Technical assistance for capacity-

building in the rule of law should be granted in response to requests from States, based on the needs and priorities identified by them.

77. In national lawmaking, due attention must be paid to the fundamental principles of international law. Domestic legislation must not violate those principles, the international obligations of the State or the sovereign rights of other States. Nor must domestic law be applied unilaterally to extraterritorial matters involving other countries. That would have an adverse impact on the rule of law and might even amount to an internationally wrongful act. Member States should be given technical assistance to incorporate their international obligations into their own legal systems and to act upon them. At the international level, the rule of law should not be confined to the codification of international law and accession by States to the resulting treaties. It should extend to promoting the legitimacy of international law and ensuring that all States, large or small, had an equal chance to participate in setting international legal norms. International law must be respected equally by all States, rejecting selectivity and double standards in the application and enforcement of international treaties.

78. The rule of law was integral to the United Nations. The purposes and principles of the Charter could only be fulfilled in a law-based international order, with all States respecting international law in their international relations and undertaking to refrain from the unlawful use or threat of force. The rule of law should also be promoted within the Organization. United Nations staff must have access to an effective, fair and efficient system of internal justice, and he welcomed the new system of administration of justice at the United Nations. He also supported the initiatives aimed at ensuring the criminal accountability of United Nations officials and experts on mission.

79. The principal organs of the United Nations must respect each other's mandate and competence. The role of the General Assembly under Article 13 of the Charter in encouraging the progressive development of international law and its codification should be respected by other United Nations organs, especially the Security Council. The primary responsibility of the Council was the maintenance of international peace and security. Its mandate was not, however, unlimited, because it was bound to exercise its powers in accordance with the purposes and principles of the Charter and to refrain from interfering in the internal

affairs of Member States. Its credibility would be undermined, and the trust of Member States impaired, if it were to make decisions on the basis of incorrect information, politically motivated analysis or the national interests of some of its permanent members.

80. He hoped the efforts of the Rule of Law Unit to ensure the overall coordination and coherence of United Nations rule of law assistance programmes would result in more effective and efficient functioning of the Organization in that area. More information about the Unit's success in promoting the rule of law, in terms of tangible results at the International level, would be welcome.

81. **Mr. Shah** (Pakistan) noted that the Secretary-General's report (A/64/298) provided only a sketchy overview of the rule of law at the international level, dealing instead more comprehensively with issues relating to the albeit equally important subject of the rule of law at the national level. His country fully supported the work of the Rule of Law Coordination and Resource Group, assisted by the Rule of Law Unit. Respect for the rule of law at the international level was a prerequisite for the promotion of respect for the sovereign equality of States and of fair practices, as well as for global peace and security. The rule of law was likewise a prerequisite for the establishment and maintenance of order at the inter-State and intrastate levels, while national and international rule of law strategies were complementary. Any inconsistency in their application should therefore be eliminated. The rule of law at the international level was based on integrated and mutually reinforcing concepts that should be collectively interpreted and implemented. As the world's premier peacebuilding institution and above all the main international trendsetter, the United Nations should take the lead in upholding and promoting the rule of law by setting examples. To that end, Security Council resolutions should be uniformly implemented, without discrimination, thereby avoiding any deepening of conflicts, erosion of confidence and undermining of credibility.

82. It was imperative to reject the abhorrent practice of encouraging impunity and to bring to justice those responsible for war crimes, genocide and crimes against humanity, which included the need for concerted efforts to arrest fugitives. In those areas, an important role was played by the international criminal justice system, which should be built on the principles of fairness, impartiality and respect for State

sovereignty. The institutions within that system must be strengthened to promote adherence to the principles of the Charter of the United Nations and international law, as well as the peaceful settlement of disputes. In particular, any use of force must be consistent with the principles relating to collective security.

83. **Ms. Orina** (Kenya) said the rule of law was the foundation of a just and peaceful society at both the national and international levels and was essential to the functioning of international relations. States, the United Nations, national institutions, intergovernmental and non-governmental organizations must therefore work together to promote the rule of law and the United Nations itself must serve as a model in that regard. In that connection, she welcomed the entry into force of the new system of administration of justice in the United Nations.

84. Kenya recognized the role of international courts and tribunals in promoting the rule of law at the international level, as well as their contribution to the development of international law. It welcomed the initiatives of the United Nations to provide capacity-building support to developing countries in order to enable them to play a full part in specialized international negotiations. Support of that kind had proved invaluable in environmental matters and ocean affairs, and more training along the same lines was needed.

85. She welcomed the efforts being made to assist States in developing and strengthening their national rule of law capacities. Such efforts would go far to encourage adherence to the rule of law at the international level, as long as political goodwill existed.

86. With regard to transitional justice, Kenya had conducted a quest for peace and reconciliation following the post-election violence of December 2007. The coalition Government was currently addressing the complex issues facing Kenyan society. She paid tribute to the mediation efforts led by Mr. Kofi Annan, the former United Nations Secretary-General, and the African Union. Kenya was committed to honouring its own international obligations with regard to the rule of law and was in favour of the United Nations pursuing greater multilateral cooperation based on the rule of law.

87. **Mr. Stastoli** (Albania) said the rule of law at the national and international levels was the cornerstone

for building solid and lasting peace and security for all societies. He welcomed the establishment of the Rule of Law Coordination and Resource Group. For Albania, strengthening the rule of law at the national level was a guiding principle for successful transition to full democracy and democratic, independent institutions. Respect for the rule of law at the national level was directly reflected in the peaceful relations built by a country with its neighbours, its region and further afield. The national level was linked with the international, both deserving the same standard of respect. The rule of law at the national and international levels was one of the chief pillars of the Stabilization and Association Agreement of the European Union, which Albania aspired to join. It had been working for constructive dialogue with all countries in its region and had unconditionally supported all the European Union initiatives for strengthening the rule of law. He commended the work done by the European Union Rule of Law Mission in Kosovo, which had made an invaluable contribution to peace and security in the region following independence.

88. Albania fully supported efforts to strengthen the role of international judicial mechanisms such as the International Court of Justice and the ad hoc tribunals. Support by Member States for those institutions should be free of any attempt to use them to serve narrow political objectives. Respect for the sovereign equality of States and efforts to resolve disputes by peaceful means went hand in hand with respect for international humanitarian law, the protection of fundamental human rights and freedoms, and the need to provide protection from genocide, crimes against humanity and war crimes. There were still many challenges ahead with regard to preventing serious violations of international law.

89. **Mr. Kuzmin** (Russian Federation) said that the rule of law at the international level was not only a means of balancing States' interests but was vital to the survival and development of humanity. Disagreements between States were inevitable, but compromise was always possible if a resolution was sought by legal means. The Secretary-General's report (A/64/298) set out a cogent and systematic approach to rule of law assistance through joint development of strategies and programming by United Nations entities with meaningful leadership by national stakeholders. Its most valuable component was the linkage between

national and international legal systems, with the development of channels for the exchange of information between the two levels of law.

90. His delegation supported the efforts to deploy United Nations assistance frameworks in support of national plans and saw great potential in the innovative collective road map devised by the Rule of Law Coordination and Resource Group. Unifying its approaches and guidelines in the area of the rule of law would allow the Organization to provide countries with more substantial support, keep useful statistics and quickly adapt support measures to changing political circumstances.

91. The Russian Federation, convinced that the notion of rule of law helped prevent States from attempting to solve their problems by ill-advised military and political means, actively promoted the idea of international justice, including at the International Court of Justice. The Court's neutrality and dedication to the principle of the rule of law was certain to increase the number of States that accepted its jurisdiction, particularly in the area of human rights. It must apply a very high standard of justice, which would set the bar for the international rule of law.

92. Noting the Secretary-General's remarks on the contribution of the international tribunals to establishing the foundation for contemporary international criminal justice, he said that their positive and negative experiences alike must be taken into consideration. The work of those tribunals and concomitant problems with the rule of law must not be used as an instrument of pressure on States.

93. There could be no double standard in international law: the true safeguards of the rule of law were the sovereign equality of States, non-interference in their internal affairs and the settlement of disputes by peaceful means.

94. **Ms. Medina-Carrasco** (Bolivarian Republic of Venezuela) said that respect for law, justice, equity, inclusion, participation, solidarity and the search for the common good, formed part of the concept of the rule of law in its broadest sense. At the national level, the rule of law was an important element of her country's participative democracy. The Venezuelan Constitution had been prepared by a constituent assembly in consultation with the people through a referendum. Like most of Latin American countries, her country had emerged as a Republic from a

movement to resist colonization by the European Powers, and considered that respect for the Charter of the United Nations and the principles and norms of international law was of fundamental importance. Full observance of international law by all States ensured a just and supportive international order where the interests of the people prevailed. The principles embodied in the Charter were the key to achieving a just and equitable international order. Consequently, the political will of States and their good faith in complying with bilateral and international obligations were essential to maintain the rule of law.

95. The Secretary-General's report (A/64/298) failed to provide a balanced treatment of the rule of law, dealing more extensively with the rule of law at the national level. However, it did state that while compliance with international law was widespread, the less frequent violations of international law tended to attract more attention. Her Government did not agree with that statement. The most frequent violations of international law were perpetrated by hegemonic States which used their immense power to impose their beliefs and their interests: for example, the invasion of Iraq, the coup d'état against her country, the unilateral coercive measures against countries that resisted subjugation, the war against Afghanistan, the extermination of the Palestinian people and many other cases that affected the sovereignty of peoples. That posed the question of what the United Nations could do to prevent a member of the Security Council from continuing to disregard the Charter. The Organization should reflect on such matters before it lost its moral authority entirely.

96. In the absence of a democratic regime within the Organization, the attainment of an international system governed by the rule of law continued to be a utopian goal. The dominance of hegemonic interests over the Organization's collective interests in the context of the Security Council's efforts to maintain peace had prevented the achievement of and relevant solutions to establish international peace and security. To date, the United Nations had been unable to impede the application of a double standard in relation to the compulsory nature of the norms accepted by all the States; that translated into discrimination and the selective application of norms, giving rise to a climate of injustice that affected the credibility of the United Nations. Hence, his delegation considered that only by democratizing and strengthening the Organization

could international law be applied fairly and in compliance with international norms.

97. Her country stressed the importance of international law as one of the sources of its domestic law when its norms derived from a treaty to which it was a party, and especially the norms and principles of the international human rights conventions and other instruments. Therefore, it was concerned when some international instances attempted to provide an erroneous or biased interpretation of such instruments. The international community should not try to impose norms that were alien to the historical, political and normative processes of countries. The normative assistance that the United Nations offered States that requested it should take such issues into account. Lastly, it was extremely important that the Committee debate the situation of the rule of law at the international level.

*The meeting rose at 6 p.m.*