



General Assembly

Seventy-first session

Official Records

Distr.: General
12 December 2016

Original: English

Sixth Committee

Summary record of the 7th meeting

Held at Headquarters, New York, on Thursday, 6 October 2016, at 3 p.m.

Chair: Mr. Danon..... (Israel)
Later: Mr. Katota..... (Zambia)

Contents

Agenda item 84: The rule of law at the national and international level (*continued*)

This record is subject to correction.

Corrections should be sent as soon as possible, under the signature of a member of the delegation concerned, to the Chief of the Documents Control Unit (srcorrections@un.org), and incorporated in a copy of the record.

Corrected records will be reissued electronically on the Official Document System of the United Nations (<http://documents.un.org/>).

16-17332 (E)



Please recycle



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

Agenda item 84: The rule of law at the national and international level (A/71/169)

1. **Mr. Harun** (Malaysia) said that the rule of law was enshrined in the Federal Constitution of Malaysia and in other laws of the country. The independence of the judiciary was constitutionally guaranteed. The composition and jurisdiction of the courts were prescribed by law and were not open to interference by the executive. With regard to national practice in the implementation of multilateral treaties, one of the subtopics for the current year's debate, Malaysia applied a dualist approach. Accordingly, in order to have the force of law at the national level, treaty obligations and rules of international law must be transformed into domestic law by means of acts of Parliament; otherwise, the country's international obligations under international instruments had no binding effect, as had been confirmed by the Malaysian Court of Appeal in its judgment in the case of *AirAsia Berhad v. Rafizah Shima*, in which it had ruled that the country's obligations under the Convention on the Elimination of All Forms of Discrimination against Women could not be enforced unless they had been expressly incorporated into domestic law. Subject to existing laws, international instruments could also be implemented through administration measures such as national policies and plans of action.

2. As to the second subtopic for the Committee's debate, facilitating access to justice for all, including for the poorest and most vulnerable, the Constitution provided that all persons were equal before, and entitled to equal protection of, the law. It also conferred the right to legal representation for any person detained, charged or prosecuted. Many practical measures had also been taken along those lines. For example, several bodies had been established to ensure that every citizen was able to obtain legal services and representation, including the National Legal Aid Foundation, which provided free legal aid and advice to all Malaysian citizens at all stages of a criminal proceeding. Persons accused of a capital offence who were unable to afford legal representation would be assigned counsel free of charge by the Malaysian courts, and mobile courts had been set up in remote areas to ensure access to justice for rural populations.

3. **Mr. Heumann** (Israel) said that rule of law was a cornerstone of stability, peace and security at both the national and the international levels. At the national level, it was a core element of every democracy. Israel represented an island of democracy in a sea of instability. Its Declaration of Independence guaranteed the democratic character of the State and ensured that the majority governed, while minorities enjoyed equal rights. Maintaining a democratic system was not always easy, especially as Israel had been threatened ceaselessly by war, terrorism and destruction since its inception. However, it remained firmly committed to the rule of law, even if its struggle against terrorism was thus more difficult.

4. In too many parts of the world, the rule of law was used not to protect and defend citizens, but rather to discriminate against them. Women were denied the opportunity to make decisions about their future, especially with regard to their education and professions. Israel, by contrast, had continuously strived to build an inclusive society where women had become leaders in every field and discipline. It had been one of the first countries in the world to elect a woman to its highest political office and women had held the post of Minister of Justice and presided over the Supreme Court.

5. Good governance and a robust, independent and impartial judicial system were key components of the rule of law. The basic laws of Israel guaranteed judicial autonomy to its courts, including the Supreme Court. That assurance had enabled the judiciary to become internationally renowned for its ground-breaking judgements on various issues relating to the rule of law. Great importance was attached to equal access to justice for all, which was essential for translating the rule of law into effective mechanisms that provided protection from and ensured adequate remedies for rights violations. Anyone, including non-citizens and civil society organizations, could petition the Supreme Court directly as a court of first instance on any governmental decision. All citizens who stood trial were entitled to legal representation. The Office of the Public Defender ensured that even the most vulnerable and marginalized persons fully enjoyed their constitutional right of access to judicial forums.

6. At the international level, maintaining the rule of law required an effective multilateral system, founded

on international law. His delegation supported the work of the International Law Commission and the United Nations Commission on International Trade Law in the development of international law. Nevertheless, it wished to highlight the importance of the principle of complementarity and to stress the primary responsibility of States to investigate and prosecute violations of international law. The real contribution of international tribunals was the quality of their legal decisions, their capability to strengthen the rule of law and their ability to reject attempts to politicize legal issues.

7. His delegation supported the ongoing United Nations capacity-building and technical assistance initiatives. Israel had been intensively engaged in providing technical assistance in many regions of the world and had organized seminars and training sessions for judges, prosecutors and investigators in the fields of public defence and counter-terrorism, among others.

8. **Mr. Abidogun** (Nigeria) said that the sharing of national practices of States in the implementation of multilateral treaties was akin to a peer review of the prevailing system and would afford the opportunity to make improvements where needed. Nigeria had demonstrated strong political will to fulfil its international obligations through the domestication of relevant international instruments. His delegation saw a nexus between the subtopic of access to justice for all and both the 2030 Agenda for Sustainable Development and the African Union Agenda 2063: The Africa We Want. Respect for and adherence to the principles of the rule of law were essential for advancing development and for addressing the plight of the poorest and the most vulnerable. Access to justice for all could foster peace and sustainable development.

9. Issues pertaining to good governance, democracy, accountability, prevention of impunity, protection of civilians in armed conflict, counter-terrorism and transnational crime were all intrinsically linked to the rule of law. Respect for the rule of law was enshrined in the Charter of the United Nations and in the Constitutive Act of the African Union and other regional instruments. The rule of law was also a fundamental principle of governance and national jurisprudence in Nigeria. The country's Constitution provided the basis for a rule of law approach to governance at the national

level. Its law-making process was people-oriented and particularly sensitive to the needs of disadvantaged and vulnerable groups. His Government considered the rule of law a fundamental prerequisite for the establishment of justice and a basis for peaceful coexistence and the prevention of armed conflict and for strengthening cooperation and ensuring peace and security among States.

10. Nigeria had joined the Open Government Partnership, which was viewed as key in the process of ensuring justice for all. It had also enacted a law that sought to eliminate violence in private and public places and provide protection and remedies for victims, especially the poorest and most vulnerable. The Administration of Criminal Justice Act, enacted in 2015, provided for the efficient management of criminal justice institutions, speedy dispensation of justice and protection of the rights and interests of suspects, defendants and victims. The establishment of the rule of law was premised on a strong, unbiased, independent judiciary. The judicial system in Nigeria had played a pivotal role in advancing the rights of the people through the interpretation of executive and legislative actions, and its role as the final arbiter among the three branches of government and in the electoral process had created an enabling environment for peace and stability. His delegation urged all nations to work collectively to attain a world where the rule of law, accountability and social justice formed the foundation for sustainable development and durable peace.

11. **Mr. Castañeda Solares** (Guatemala) said that his Government attached great importance to strengthening the rule of law by ensuring access to justice for all. It recognized the importance of a free, independent and effective judicial system to which everyone had access without discrimination. Ensuring access to justice meant making people aware of their rights and of the mechanisms for ensuring respect for those rights. In addition, justice must be timely and judgments must be enforced, and the justice system must be responsive and efficient if it was to inspire trust.

12. The United Nations made a valuable contribution to the promotion of a system founded on the rule of law. The work of the United Nations Rule of Law Coordination and Resource Group in that regard was to

be commended. Guatemala continued to face challenges in ensuring full access to justice and combating impunity and was grateful for the support received from the United Nations, particularly to enable it to strengthen its capacity for the investigation and prosecution of human rights violations. Many recent advances in the areas of justice and institution-building could be attributed largely to the country's partnership with the Organization, beginning in 2006 with the establishment of the International Commission against Impunity in Guatemala. The Commission had achieved remarkable success in the investigation and prosecution of emblematic cases, technical capacity-building and promotion of legal reforms. It provided a singular model for effective institution-building. As its Commissioner was appointed by the Secretary-General, the Commission had a *sui generis* character for an international body, in that it operated in areas that normally fell solely within the domestic purview. Nevertheless, it had been established at the express request of the Guatemalan State in a bold attempt to overcome structural obstacles and improve the capacity of national institutions to tackle impunity. The Government was confident that, by the end of the Commission's mandate, Guatemalan institutions would be in a position to discharge their responsibilities as part of a sovereign and democratic nation.

13. Lastly, his delegation wished to highlight the close linkage between the rule of law and development and to acknowledge the added value of Sustainable Development Goal 16 within the 2030 Agenda for Sustainable Development, as access to justice for all was essential in order to foster peaceful and inclusive societies.

14. *Mr. Katota (Zambia), Vice-Chair, took the Chair.*

15. **Mr. Arrocha Olabuenaga** (Mexico), recalling that the topic of the rule of law at the national and international levels had been placed on the agenda of the General Assembly in 2006 at the request of the delegations of Liechtenstein and Mexico, said that despite the progress made on the topic over the years, both within the United Nations and in the international community, the item remained timely, as there were ongoing challenges in consolidating the rule of law at both the national and the international levels. The rule of law should therefore continue to be a priority for the Secretary-General.

16. The Secretary-General's role in the peaceful settlement of disputes would undoubtedly be strengthened if he were authorized to seek advisory opinions from the International Court of Justice, which played a key part in promoting the rule of law. The fact that, more than 70 years after the founding of the United Nations, fewer than half of its Member States had formally accepted the Court's jurisdiction was a source of concern. It was important to foster conditions that would enable access to justice and the strengthening of international courts and tribunals by encouraging States to accept their jurisdiction, including jurisdiction clauses in multilateral treaties and promoting the work of the International Law Commission in the codification and progressive development of international law.

17. International treaties played a central role in the establishment of the rule of law at the international level. At the national level, they helped to create conditions that were conducive to the maintenance of justice and respect for the obligations arising from both the treaties themselves and from other sources of international law. Mexico had collaborated with the United Nations in organizing a regional seminar on treaty law and practice for the region of Latin America and the Caribbean, held in July 2016, and was grateful for the work of the Treaty Section of the Office of Legal Affairs, particularly in registering international treaties and in discharging the depositary functions of the Secretary-General.

18. It was of utmost importance to put in place a justice system that was transparent and accessible to all, but especially to the most vulnerable groups, in order to avoid abuses of authority. Mexico was currently implementing an adversarial system of justice characterized by oral proceedings, transparency, mediation, conciliation, redress and respect for the human rights of both the victim and the accused. Alternative means of dispute resolution were also available in order to ease congestion in the justice system. The new system would ensure the application of consistent judicial criteria, thus generating greater legal certainty and security in the administration of justice. Promoting access to justice for all would help to eliminate the fundamental causes of exclusion, especially for vulnerable populations.

19. His delegation wished to thank the Secretary-General for his most recent report on the rule of law at the national and international levels (A/71/169). At the same time, it believed that a number of topics would benefit from more in-depth treatment, including access to justice, especially for vulnerable groups; gender justice; the fight against corruption; constitutional law; the role of the International Law Commission; extractive industries and natural resources; illegal wildlife trade; environmental justice; trafficking in persons; transnational organized crime; counter-terrorism; the relationship between the rule of law and sustainable development; accountability for the most serious crimes; statelessness; freedom of expression; and cybercrime.

20. **Mr. Remaoun** (Algeria) said that the development of the rule of law helped to enhance the three pillars of the United Nations: peace and security, development and human rights. In his delegation's view, it was imperative to maintain a balance between the rule of law at the national and the international levels. The first subtopic for the current year's debate, the national practices of States in the implementation of multilateral treaties, was of particular importance, given the growing complexity of such instruments and the institutional structures established therein. In the Algerian hierarchy of legal norms, treaties were higher than laws and national legislation was developed and adapted in accordance with international norms and standards. Algeria had ratified or acceded to all major international treaties and conventions and had subsequently integrated their provisions into its national legal system. With a view to meeting the country's international obligations, the various ministerial departments concerned with the implementation of a particular treaty developed sectoral action plans, which were then compiled to produce a single national action plan for the implementation of the treaty.

21. At the regional level, Algeria had helped to found the New Partnership for Africa's Development, which had been inspired by a strong conviction that it was necessary for Africans to work for the promotion of their development and to adapt their countries to new rules relating to good governance. Algeria had also been one of promoters of the African Peer Review Mechanism, a voluntary self-assessment tool designed to promote more effective governance, and had undergone a review itself.

22. It was essential to ensure respect for the rule of law and human rights in efforts to prevent and counter terrorism. As part of his Government's efforts to combat terrorism in the Sahel, in March 2016 it had organized an international workshop on the role of criminal justice in the fight against terrorism, which had sought to assist the States of the region in adopting laws criminalizing the financing of terrorism and addressing gaps in their institutions' capacity to establish effective legal frameworks to fight terrorism.

23. Equal access to justice for all must be ensured if the principles of the rule of law were to be translated into effective mechanisms of protection. Under the Algerian Constitution, justice was based on the principles of legality and equality and was equal for and accessible to all. Justice for all was equally important at the international level. The international community could not remain indifferent to the situation of peoples living under colonial domination or foreign occupation. The fact that the Charter of the United Nations was being trampled upon, General Assembly and Security Council resolutions were being violated and opinions of the International Court of Justice were being ignored meant that the international community as a whole had failed to ensure access to justice for the poorest and the most vulnerable peoples of the world. Those responsible for the suffering of peoples living under colonial domination or foreign occupation had a duty to facilitate their people's access to justice. Those parties bore a direct responsibility for the maintenance of international peace and security and should implement the relevant United Nations resolutions and international law provisions.

24. With regard to access to justice in the context of natural resources in areas beyond national jurisdiction, he wished to draw attention to the work of the Preparatory Committee on an international legally binding instrument on the conservation and sustainable use of marine biological diversity. Justice for all meant enshrining the principle of "common heritage of mankind" in a future instrument in order to allow all peoples of the world to benefit from and have a say over the use of marine genetic resources.

25. **Mr. Musayev** (Azerbaijan) said that his Government's position with regard to the rule of law stemmed from its keen interest in contributing to the achievement of sustainable peace and development

worldwide and from its practical experience of facing armed aggression, violent separatism, foreign military occupation and ethnic cleansing. International attention to the importance of the rule of law at the national and international levels had increased significantly in recent years. However, greater efforts were needed to ensure a unified approach to the issue and to address the major threats and challenges that continued to affect basic elements of the international legal order. Faithful implementation of treaties was fundamental to that end.

26. The commitment to resolve disputes by peaceful means was one of the cornerstones of the rule of law at the international level. States must respect each other's territorial integrity and political independence, refrain from the threat or use of force in their international relations and resolve their disputes in conformity with international law. The principle of the non-use of force implied a prohibition on changing the boundaries of States through violent means or acquiring territory by force. Where a State had neglected its obligation to settle an international dispute by peaceful means and had used force to seize the territory of another State, claims that the latter was under an obligation to comply with the principle of non-use of force vis-à-vis the aggressor contradicted the Charter of the United Nations, in particular its Article 51, and customary international law. If sustained, such claims would tend to entrench the notion that control could be achieved through the unlawful use of force, reinforce perceptions of the centrality of military strength in international relations and encourage impunity rather than ensuring justice.

27. No peace settlement could be inconsistent with international law or endanger justice, particularly where peremptory norms were concerned, such as the prohibition of aggression, the prohibition of genocide and the obligation to respect the territorial integrity and sovereignty of States. As the principal judicial organ of the United Nations, the International Court of Justice played an important role in promoting the rule of law and encouraging the settlement of international disputes by peaceful means. The Court's advisory opinions on legal questions could also help to ensure that settlement efforts were in line with international law, especially in situations where actions in contravention of the Charter and international law were

accompanied by apparent misinterpretation of legal norms and principles.

28. Although important steps had been taken at the national and international levels to prevent and punish wrongs, issues of accountability for violations of international humanitarian and human rights law in some situations of armed conflict had not received sufficient attention at the international and regional levels. As a result, wrongs of the recent past had gone unpunished and had continued to impede progress in achieving peace and reconciliation and could play a role in fuelling new conflicts and the commission of new crimes. Combating impunity was therefore important not only to bring those responsible for crimes to justice, but also to ensure sustainable peace. The establishment of ad hoc or mixed tribunals could assist national efforts to pursue justice, especially where a culture of impunity prevailed. In pursuing peacemaking efforts and peace agreements, it was important to ensure that the unlawful use of force or other egregious violations of international law, such as war crimes, crimes against humanity, genocide and ethnic cleansing, were never encouraged, accepted or tolerated, nor should amnesty ever be promised or any other form of immunity from prosecution be encouraged.

29. **Mr. Lasri** (Morocco) said that the subtopics chosen for consideration during the current session were of particular interest to his delegation. Access to justice was essential to the rule of law, legal certainty and good governance and was also a factor that contributed to development. His Government had taken a number of actions to facilitate access to justice, especially for the most vulnerable, as part of a comprehensive reform of the justice system aimed, inter alia, at improving judicial efficiency and ensuring access to the justice system, enhancing the independence of the judiciary and the capacity of judicial officials and other human resources, strengthening fair trial guarantees and modernizing the administration of justice. Specific actions to facilitate access to justice for the most vulnerable included promoting and expanding the legal aid system; instituting a system of free legal aid; strengthening assistance to women and children who were victims of violence; improving citizens' access to the courts and to legal information; strengthening the ability of courts to communicate with citizens, including those with

special needs and speakers of languages such as Amazigh; and putting in place a mechanism for communication with the media in order to uphold the right to information.

30. With regard to the implementation of multilateral treaties at the national level, Morocco had taken steps to harmonize its laws with the principles of duly ratified international conventions on human rights and the fight against crime, terrorism, torture and discrimination in any form. Its Criminal Code and Code of Criminal Procedure had also been revised. Moroccan judges applied Moroccan law, which in some cases made reference to multilateral conventions that had been ratified and published in the Official Gazette. Specific laws on the implementation of multilateral conventions had been enacted where called for by the provisions of the convention. The Constitution recognized the primacy of duly ratified international conventions over domestic law. Morocco had ratified or acceded to most of the multilateral conventions adopted under the auspices of the United Nations in the areas of human rights, humanitarian law, counter-terrorism and environmental protection, including, most recently, the Paris Agreement under the United Nations Framework Convention on Climate Change.

31. The rule of law was inextricably linked to the principles and purposes of the United Nations and to the three pillars of the Organization, namely, international peace and security, human rights and development. At the international level, States had an obligation to honour their commitments under the various legal instruments that enabled them to assert their rights without the use of force. There was an obvious need to strengthen the rule of law in the face of new challenges generated by recent trends in international relations and by the increasingly serious problems that had arisen in various areas. The rule of law provided a means of striking a balance between the two imperatives of freedom and order.

32. **Mr. Barre** (Senegal) said that respect for the rule of law was essential to the achievement of lasting peace, the protection of human rights and the realization of economic growth and sustainable development. Measures were needed to ensure equality before the law, fairness in the application of the law, the separation of powers, legal certainty, transparency

in the legislative process and participatory decision-making. Respect for the rule of law was as important for international organizations, including the United Nations and its organs, as it was for States. Ensuring adherence to the rule of law in all their activities would lend certainty and legitimacy to their actions. Member States should continue to examine and promote all aspects of the rule of law and seek to strengthen the linkages between it and the three pillars of the United Nations.

33. Human and economic development, security and access to justice for women, innovative means of dispute resolution and transitional justice were essential components of the rule of law. It was important to strengthen collaboration at the regional and global levels in order to overcome the challenges that might undermine the rule of law, to create opportunities for consultation with civil society and to foster regional and international partnerships for the development and promotion of joint initiatives to bolster the rule of law. It was also essential to build a culture of integrity, justice and fairness at all levels of society and to ensure that governance practices were clearly defined.

34. Without access to justice, the rule of law would remain merely an ideal. Access to justice was an essential component of the rule of law and a fundamental right that enabled individuals to assert their prerogatives and seek redress for violations thereof. Upholding that right in practice meant putting in place a legal aid system that would ensure that the most disadvantaged members of society had full access to the law and to justice. Aware that economic growth could not be achieved nor could poverty be eliminated without the rule of law and access to justice, his Government had made those two principles key components of its economic and social development plan. The Ministry of Justice had been tasked with improving access to justice and enhancing the quality and efficiency of the justice system, including through strategies to put in place a grass-roots justice system. Those efforts had helped to strengthen the rule of law by empowering citizens to exercise their rights. They had also improved access to legal information, promoted alternative means of dispute resolution and made it easier for citizens to obtain certain official documents.

35. Community justice centres offered services free of charge with minimal formalities, unlike the courts, where lengthy procedures and frequent delays hindered the settlement of disputes. The use of local languages and avoidance of esoteric legal vocabulary had further reduced barriers to access, as had the establishment of a system of legal aid. The community justice centres had helped to humanize justice by rendering it more flexible, less costly and better suited to the socioeconomic reality of the population. Senegal had been striving to enhance access to justice at the grass-roots level since 1999 and had thus been in the vanguard of global efforts to promote access to justice for all.

36. **Mr. García Moritán** (Argentina) said that the Organization's capacity-building activities were crucial for strengthening the rule of law in many countries, particularly in conflict and post-conflict situations, where strengthening judicial and law enforcement systems should be a priority. It was also essential to prevent impunity for gross violations of human rights. The Rome Statute of the International Criminal Court, one of the most significant achievements of the international community, played a central role in that respect. However, in order to fight impunity effectively, it was necessary to strengthen domestic prosecutorial and judicial systems since, under the principle of complementarity, the Court did not take the place of domestic courts but played a subsidiary role.

37. Strengthening of democratic institutions was also a requirement for promoting the rule of law. In that regard, it was important to highlight the role that regional integration mechanisms had played in promoting the rule of law in Latin America. Argentina reaffirmed its strong commitment to the preservation of democratic institutions, the rule of law, constitutional order, social peace and full respect for human rights. It was actively involved in promoting access to justice and free legal assistance and in November 2016 would host the second International Conference on Access to Legal Aid in Criminal Justice Systems, which would consider options for setting up a global network of legal aid providers as a means of furthering efforts to achieve target 3 of Sustainable Development Goal 16.

38. The contribution of the United Nations to the development of international law, particularly through

the development of universal multilateral norms, strengthened the rule of law. A fundamental pillar of the rule of law was the peaceful settlement of disputes, in which the International Court of Justice played a central role. In addition to the Court, various specialized courts, such as the International Tribunal for the Law of the Sea, facilitated dispute settlement. Argentina was a party of the United Nations Convention on the Law of the Sea and had accepted the jurisdiction of the International Tribunal. Other methods of international dispute settlement were also provided for in the Charter of the United Nations and mentioned in the Declaration of the High-Level Meeting of the General Assembly on the Rule of Law at the National and International Levels ([A/RES/67/1](#)). For example, the Secretary-General might also be requested to exercise his good offices for the peaceful settlement of disputes. However, in order for any means of peaceful settlement to succeed, the parties concerned must act in good faith and negotiate when called upon to do so by United Nations organs, including the General Assembly. Third parties, meanwhile, should refrain from conduct that might hinder a peaceful solution.

39. **Ms. Nguyen** Phuong Nga (Viet Nam) said that many parts of the world continued to suffer from conflicts, tensions and confrontations. Unilateralism, power politics and the threat or use of force hindered efforts to settle conflicts peacefully. In that context, the United Nations should continue to promote a system based on the rule of law at the international level, anchored in its Charter and buttressed by the corpus of international treaties and international justice mechanisms developed under its auspices. All disputes should be settled by peaceful means, as defined in Article 33 of the Charter.

40. The Asia-Pacific region faced the risk of conflicts, including in the South China Sea, which could threaten peace, security and prosperity at both the regional and the global levels. Her delegation was seriously concerned about recent developments in the South China Sea and called upon all parties concerned to exercise self-restraint and settle disputes by peaceful means in accordance with international law, including the United Nations Convention on the Law of the Sea; fully respect diplomatic and legal processes; implement the Declaration on the Conduct of Parties in

the South China Sea; and expedite the completion of a code of conduct for the South China Sea.

41. At the national level, Viet Nam continued to reform its legal system and strengthen the rule of law. Laws on the organization and operation of political institutions had been formulated and enhanced with a view to building a law-governed State. The legal system had been strengthened to ensure human rights, freedom and democracy and to support civil and economic activities. Viet Nam had recently acceded to the International Convention for the Suppression of Acts of Nuclear Terrorism and was actively preparing for the ratification of the Paris Agreement by the end of 2016. It remained committed to working closely with the United Nations, fellow Member States and other partners to promote greater adherence to the rule of law at the international and national levels.

42. **Mr. Mousavi** (Islamic Republic of Iran) said that the rule of law at the national and international levels was essential to lasting peace and security, sustainable development and respect for human rights. The key to upholding the rule of law was to respect the well-established principles of international law as enshrined in the Charter of the United Nations, including the sovereign equality of States, prohibition of the threat or use of force and non-intervention in the internal affairs of States. Both States and the Organization itself were bound by those principles. All United Nations organs, but especially the Security Council, were obliged to respect the principles embodied in the Charter and international law and, in adopting and implementing their mandates, should at no time encroach upon the fundamental human rights of individuals. In particular, they should not impose unjust or illegitimate measures. Misinterpretation of Article 51 of the Charter should be avoided. In invoking Article 51, the Organization and its Member States should remain committed to respecting international human rights law and international humanitarian law. A manipulated, politically biased application of *jus ad bellum* could in no way justify the misapplication of *jus in bello* or *jus humanum* in general.

43. The principle of State immunity was one of the cornerstones of the international legal order and a rule of customary international law, most recently codified in the United Nations Convention on Jurisdictional

Immunities of States and Their Property. Its primacy had been recognized by the community of nations, all legal systems and the International Court of Justice. With the sole possible permissible exception of commercial activities, claims against a sovereign State must be pursued either in accordance with mechanisms provided for in bilateral or multilateral agreements or through international courts or tribunals. It was a matter of grave concern that a few countries seemed to believe that they could defy the fundamental principle of State immunity by unilaterally waiving the immunity of States under a groundless legal doctrine not recognized by the international community. The Islamic Republic of Iran rejected the unilateral and unlawful decisions of such States and was determined to take every lawful measure to preserve its rights.

44. With regard to national practices in the implementation of multilateral treaties, by participating in treaty-making consultations and deliberations in a timely manner, the Iranian Government was able to consider fully consider all the actions that might need to be taken at the national level to ensure the signature and ratification of or accession to international treaties. Under the dualist system provided for in the Iranian Constitution, all international treaties, protocols, contracts and agreements must be approved by Parliament to have effect in the country. A similar stipulation was found in the Civil Code, whereby the provisions of treaties concluded between Iran and other States in accordance with the Constitution had the force of domestic law, but national legislation must be enacted for them to have such effect. An example of an international treaty that had been ratified by the Iranian Parliament was the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction.

45. As to practical measures to facilitate access to justice for all, his Government had endeavoured to promote the rule of law at the national level through executive, legislative and judicial measures. In recent years, projects had been carried out with a view to facilitating access to legal aid and services, and a law had been enacted to increase legal services through, inter alia, recruitment of legal advisors and attorneys in various fields and through public awareness-raising on legal and judicial matters. The Iranian judiciary had implemented a set of schemes through which various judicial services had been designed and provided,

especially through the use of information and communications technology, with a view to facilitating judicial proceedings. The number of public defenders had been increased in order to improve legal aid for the poor. The judiciary had also encouraged the use of expeditious dispute settlement mechanisms, such as arbitration, mediation and conciliation, as a means of facilitating access to justice. The enactment and implementation of a law establishing conciliation and dispute settlement boards had broadened access to justice and provided a way of avoiding time-consuming court proceedings.

46. **Mr. Yang Jaiho** (Republic of Korea) said that multilateral treaties were important tools for tackling global and regional challenges and for promoting and advancing the rule of law in a broad range of areas. The international community continued to face grave challenges, including war, global terrorism, violent extremism, severe violations of human rights, inequality, poverty and climate change of unprecedented severity. Multilateral treaties could be useful tools for addressing those challenges through concerted efforts by the international community. Given the lack of adequate enforcement mechanisms in the international community, however, it was essential for each country to take effective measures to ensure faithful implementation of such treaties.

47. The Republic of Korea had long been a staunch supporter of efforts to curb climate change and had played a pivotal role in promoting a paradigm shift towards climate-resilient development. Against that backdrop, his Government was taking steps to complete the ratification of the Paris Agreement as soon as possible in 2016. In addition, mindful of the efforts of the international community to end impunity for those who had committed the most serious crimes, it had enacted a law on punishment of crimes under the jurisdiction of the International Criminal Court, which fully reflected the principle of complementarity enshrined in the Rome Statute. In keeping with the 2030 Agenda for Sustainable Development, it was of great importance for States to share their practices and lessons learned with other States that might suffer from a lack of resources or capacity. Such exchanges could help to advance the rule of law. The Republic of Korea had committed itself to strengthening the rule of law at the international level through various programmes and activities, including education and training for

government officials and other professionals from developing countries on the implementation of international instruments on the oceans, such as the United Nations Convention on the Law of the Sea.

48. Without adequate and efficient access to legal information, neither access to justice nor the rule of law could work properly, especially in a fast-changing information society. Free access to legal information enhanced institutional transparency and provided the basis for equal opportunity for individuals to make use of the law and legal procedures to protect themselves in the social, economic and environmental spheres. His Government had established a system for making legal information readily available to the public online. In addition, a state-of-the-art electronic litigation system, in operation since 2010, allowed parties to file various litigation documents electronically, and trial proceedings were conducted in a court that was equipped with electronic facilities. The system had greatly increased the efficiency, transparency, predictability and cost-effectiveness of the justice system. A legal aid mechanism existed to ensure access to justice for people who were not familiar with information technology or could not afford electronic devices, especially the poor and vulnerable. The Korean Legal Aid Corporation, a government institution, played an important role by providing free legal advice and low-cost legal representation.

49. His delegation reaffirmed its commitment to promoting and advancing the rule of law, which was essential for the realization of inclusive economic growth, sustainable development, the protection of human rights and peaceful coexistence and cooperation among States.

50. **Mr. Tupouniua** (Tonga), commending the work of the United Nations in the promotion of international law through various mechanisms, said that regional workshops on international treaty law and practice and the comprehensive treaty databases on the United Nations Treaty Series website had been of great assistance to Tonga in capacity-building and institutional strengthening and had contributed to its ability to implement treaties domestically. Tonga attached great importance to the rule of law, which was essential to ensure a peaceful, secure and stable society. The rule of law was best promoted by fostering

a sense of ownership and respect for it at all levels of society.

51. Any legislative framework developed at the national level must be balanced in that it must address domestic issues while at the same time upholding the provisions of multilateral treaties. Such a balance had only been possible in Tonga through collaboration between international and national counterparts, tailored capacity-building and appropriate institutional strengthening. A successful example was the collaboration between the Tongan Government and the International Labour Organization (ILO) to domesticate and implement the ILO Constitution in Tonga. In contrast, however, when the Government had announced its intention to accede to the Convention on the Elimination of All Forms of Discrimination against Women, it had faced an unprecedented level of opposition from stakeholders. Despite its advocacy and collaboration with international experts and public consultations to help stakeholders understand the rights and obligations under the Convention, the Government had eventually suspended its efforts. Nevertheless, it continued to work, with the assistance of the Regional Office for the Pacific of the Office of the High Commissioner for Human Rights, to garner support for eventual domestication and implementation of the Convention. While the desire of the Tongan Government to be consultative and transparent in its work might have made the domestication of international treaties more difficult, extensive consultation with relevant stakeholders was in line with the path of democratization on which it had embarked, and he was confident that, with time and effort, the high ideals of the rule of law would be fully realized.

52. **Mr. Saikal** (Afghanistan) said that the rule of law provided the foundation upon which stable and prosperous societies were built. It was a fundamental precondition for achieving a rules-based international order in which citizens lived peaceful, secure and dignified lives and in which States met their obligation to abide by the principles of the Charter of the United Nations and fulfil their commitments under the multitudes of international treaties and conventions related to peace and security, human rights, and social and economic development. For its part, Afghanistan was sparing no effort to implement its commitments under all the international instruments to which it was a party.

53. Advancing the rule of law had been a challenging task in Afghanistan. The current Government had inherited a tragic legacy of more than 20 years of conflict and had also had to grapple with constant conflicts between legitimacy and illegitimacy, legality and illegality. Whereas the National Unity Government and previous administrations had sought to strengthen governance and transparency, extremist groups sent to Afghanistan from outside its borders had defied its Constitution and engaged in a reign of terror aimed at undermining the Government's stabilization efforts. In so doing, they had violated fundamental principles enshrined in the Charter of the United Nations, as well as international law and international humanitarian law.

54. Since taking office, the Government had worked to consolidate the rule of law as a cornerstone of its strategy to achieve a secure, stable and prosperous Afghanistan. It had undertaken a major overhaul of State and local institutions with a view to promoting transparency and accountability in all government affairs. In the civil service, it had established a merit-based process for the appointment of senior officials. More than 600 judges had been replaced, with some being prosecuted for illegal activity. A national council on the rule of law had been established with a mandate to address all forms of administrative corruption, and electoral institutions were being reformed in order to consolidate the democratization process. In the public finance sector, a national procurement commission had been set up to ensure transparency in all government contracts.

55. At the Brussels Conference on Afghanistan, the Government had provided an update on its reform efforts and the international community had made new pledges of assistance to help it implement the Afghanistan National Peace and Development Framework, the overarching strategy for advancing the country's social, economic and institutional development. The United Nations had played a central role in coordinating the international community's support for rule of law efforts in Afghanistan. Those efforts had sought to promote fundamental rights and freedoms for all citizens, but especially for women and children; enhance the capacity of State institutions for effective delivery of services; strengthen democratic values and principles in Afghan society; and lay the foundation for a self-reliant

Afghanistan that was governed fully by the rule of law and could meet its own security and development needs.

56. Violence in the form of terrorism and violent extremism remained the dominant challenge to stabilization and rule of law efforts in Afghanistan. The Government had launched a comprehensive strategy comprising both a military and a peacebuilding component with a view to achieving durable peace. While increasing its defensive capacity and continuing the fight against terrorism, it was also pursuing peace and reconciliation with armed opposition groups who were ready to shun the path of violence, become law-abiding citizens and adhere to the provisions of the Constitution. It was also striving to build a broad-based economy that would empower citizens with job opportunities. To that end, it had taken steps to increase the volume of trade and transit with other countries, invested in modernizing the agricultural sector and developed new policies to make the most of the country's vast natural resources, which could serve as a key pillar of its future economy.

57. Just fifteen years earlier, Afghanistan had been a country forgotten by the global community, whose social fabric had been decimated. Now it had regained its place among the responsible community of nations committed to the full implementation of the rule of law and other universal principles enshrined in the Charter of the United Nations. He was confident that with the continued support of the United Nations and other international partners, it would be able to realize the vision of a peaceful and prosperous future.

58. **Mr. Ahmad** (Pakistan) said that although his delegation had some reservations regarding some of the terminology used in the Secretary-General's report (A/71/169), it appreciated the efforts of the United Nations in support of national activities related to strengthening of the rule of law. The most critical aspect of the intricate relationship between the rule of law and the maintenance of peace and tranquillity was the just, equal and fair application of laws. Arbitrary or selective application of laws amounted to nothing more than tyranny. At the international level, the Charter of the United Nations, international law and the international justice system formed the basis for a just and fair world order. Unequivocal adherence to the fundamental principles of the Charter would strengthen the rule of law at the international level. All resolutions of the

Security Council should conform to the purposes and principles of the Charter and should be implemented with uniformity. International judicial institutions should be strengthened and the Security Council should make optimum use of the International Court of Justice. Long-standing disputes should be resolved in accordance with the relevant United Nations resolutions. Failure to implement such resolutions or selective implementation of their provisions undermined the credibility of the rule of law at the international level. It was critical for the United Nations to lead by example, as an institution that failed to uphold the legal principles it espoused would lose the moral ground to promote them.

59. In a world with an ever-increasing number of people vulnerable to exploitation, discrimination and violence, it was imperative for States to facilitate and enhance access to justice, which was critical to a society based on the rule of law. His Government's priorities in that regard included the provision of speedy and inexpensive justice to all and the promotion of a culture of accountability and elimination of corruption. Landmark legislation had recently been adopted to ensure speedy justice for women in cases of honour killing and rape.

60. Fundamental elements for promoting access to justice included a functioning and competent judiciary; sensitive and approachable law enforcement agencies, with capacity-building for judicial and law enforcement officials, including through a gender-sensitive approach; and an effective legal support system, in particular for the poorest and the most vulnerable. In partnership with the United Nations, his Government was working to enhance the capacity of national judicial academies, build a network of paralegal services, promote community policing initiatives and the recruitment of female police officers with training in gender-sensitive policing, and develop a legal framework to facilitate the provision of legal aid. It was also working to enhance access to justice for refugees. The number of judges, courts and legal aid centres had been increased and legal processes had been accelerated in many district courts. The growth of free media in Pakistan had also contributed significantly to better access to justice, as people had become more aware of their legal rights and of the legal avenues for preserving those rights.

61. Pakistan attached high importance to meeting all its international obligations and remained committed to implementing all the multilateral treaties to which it was a party. Ideally, the foundation for the effective implementation of a multilateral treaty should be laid within the treaty itself. To that end, various aspects of national implementation, including ways to enhance capacity to implement multilateral treaties, should form an integral part of the treaty negotiation process. Many multilateral treaties carried obligations that could only be fully met through actions at various subnational levels, which meant that implementers at the national and subnational levels had to work in unison and with the same degree of urgency. That, in turn, required an understanding of operational challenges among actors at the national level and education and capacity-building of actors at the subnational level. Bilateral cooperation between States and partnerships with relevant international bodies could be useful in overcoming challenges in the implementation of multilateral treaties.

62. His delegation wished to underline the importance of fairness and justice in the development and implementation of the rule of law, in particular at the international level. Injustices at the national level could be challenged in civil or criminal court under relevant national laws. At the international level, however, the principal makers of international law were also the principal arbiters of that law, and recourse to justice was usually elusive.

63. **Mr. Nkoloji** (Botswana) said that, for most nations, the establishment of the United Nations had provided an incentive to live in harmony and to contribute to the maintenance of international peace and security. The Organization had become the cornerstone for the promotion of relations between States, for the protection of human rights and for socioeconomic development, as well as for the signing of treaties between States. The Charter of the United Nations was the only universally accepted multilateral agreement, and its purposes and principles were as relevant today as ever. Botswana had joined the Organization in 1966 and remained proud to be a part of a family of nations dedicated to promoting social progress, better standards of living, justice and respect for the fundamental human rights, dignity and worth of all human beings. As a young democracy, Botswana had come a long way, thanks to the support and generosity of all who had helped it to grow and

prosper as a nation. In order to do so, it had had to cultivate and deepen a culture of democracy and a belief in strong, accountable and transparent institutions. It was proud to be among the most consistently peaceful and progressive democracies in Africa.

64. His delegation affirmed its conviction that the rule of law was essential for sustainable development and reiterated its respect for international law, the peaceful settlement of conflicts, the sovereign equality of nations and the prohibition of the threat or use of force. It supported the work of the International Law Commission as it continued to codify international law and welcomed the United Nations programmes and activities aimed at strengthening the rule of law at the national and international levels. It also supported the sharing of national practices in the application of multilateral treaties, including through regional seminars to promote understanding of international law.

65. As a party to many multilateral treaties, Botswana had a passion and a desire to contribute to a strong international justice system as a catalyst for sustained peace, prosperity, development and social growth. Having learned from lessons of the past, it was a peace-loving nation that supported the principle of self-determination of all peoples who were still under colonial rule or foreign occupation. It was unequivocal in its support for victims of atrocities, crimes against humanity, war crimes and genocide. Botswana was also a friend and supporter of the International Criminal Court, the only permanent court of last resort to fight against impunity. The country's support for strong international legal frameworks, including all international tribunals, was born of a conviction that those who committed international crimes of grave concern must be held accountable, irrespective of their power, influence or status. Just as all nations enjoyed sovereign equality, all persons should be treated as equal before the law.

66. **Mr. AlMowazri** (Kuwait), expressing support for United Nations rule of law activities, including the constitution-making initiatives described in the Secretary-General's report (A/71/169), said that constitutions provided the normative and institutional foundation of States and should enable the establishment of a strong system based on the rule of law, consistent with international obligations, especially those derived from human rights instruments. His delegation agreed

that legal frameworks based on international human rights norms, and supported by independent, efficient and competent justice systems, were core elements of the rule of law and therefore a priority of United Nations assistance. It also agreed that respect for the rule of law and human rights was fundamental in all measures to prevent and counter terrorism, and it supported the capacity-building activities of the United Nations Counter-Terrorism Implementation Task Force. It also welcomed the support provided by other agencies of the United Nations for institutional strengthening based on the rule of law with a view to preventing and countering terrorism.

67. The rule of law at the international level required both a collective understanding of the concept and adherence to international conventions, agreements and instruments. Disputes should be resolved peacefully between States or through international legal bodies such as the International Court of Justice, which played a central role in the United Nations rule of law architecture. At the national level, societies that enjoyed peace and security were governed by a constitution and laws that ensured equality, justice and respect for the human rights of all citizens. The Constitution of Kuwait, adopted in 1962, had enabled it to put in place a democratic system of governance, with separation of powers and protection of civic rights and civil liberties. The country had also enacted laws to protect and uphold the rights of various groups, including children and migrants.

68. In conclusion, his delegation believed in the Charter of the United Nations and supported the Organization's efforts to strengthen the rule of law and contribute to a world in which security and stability prevailed.

69. **Ms. Yparraguirre** (Philippines) said that, under its Constitution, the Philippines renounced war as an instrument of national policy, adopted the generally accepted principles of international law as part of the law of the land and adhered to a policy of peace, equality, justice, freedom, cooperation and amity with all nations. With regard to national practices in the implementation of multilateral treaties, the Constitution provided that no treaty or international agreement was valid and effective without the concurrence of at least two thirds of the members of the Senate. The Office of the President was required to obtain the concurrence of

all executive agencies concerned with the subject matter of the treaty or agreement, and only after doing so could the President ratify the treaty or international agreement and submit it to the Senate for its endorsement. In many cases, separate enabling domestic legislation would be necessary to implement the treaty or international agreement. Similarly, many agencies might be involved in the ratification of a multilateral treaty, but there would be an identified implementing agency or agencies. In the event of a legal controversy relating to the character of an agreement or its substance, the Supreme Court had original jurisdiction.

70. The Philippines was a party to major multilateral treaties in key areas of international law, including the law of treaties, the law of diplomatic and consular relations, the law of international organizations, international trade law, human rights law, international humanitarian law, environmental law, the law of the sea, the peaceful settlement of disputes and international criminal law. In the latter area, it was a party to the Rome Statute of the International Criminal Court. In entering into multilateral treaties, it renewed its faith in the rule of law to govern conduct between nations, prevent war, foster peace and security, ensure human dignity, promote justice and contribute to a better life for all.

71. Of the many multilateral treaties to which the Philippines was a party, the United Nations Convention on the Law of the Sea — the Constitution for the oceans — stood out. It represented a delicate and careful balance between the rights and obligations of all States parties and had become the key to ensuring global and regional peace and the just and sustainable use of the world's oceans and their resources. The Philippines was fully committed to the peaceful and rules-based resolution of disputes under the Convention.

72. The award of 12 July 2016 handed down by the arbitral tribunal constituted under Annex VII to the Convention in the *South China Sea Arbitration (The Republic of Philippines v. The People's Republic of China)* had clarified the maritime entitlements of the parties and was now a significant part of the corpus of jurisprudence in international law. On the fundamental issue of the so-called nine-dash line and on the question of rocks or islands, the problem of fishing rights and the protection of the marine environment,

the definitions had shifted and the terms had been adopted by the tribunal, as enunciated in the award. As a law-abiding country, the Philippines fully respected the award as valid, final and binding and was ready to engage and negotiate with the relevant party in order to move forward on the resolution of the dispute. Her Government appreciated other Member States' support for the peaceful settlement of the dispute and for the award, which was a leading example of a legal outcome resulting from the multilateral treaty process.

73. The rule of law, including through the multilateral treaty process, underpinned the predictability and stability of national and international development and progress. It anchored relations between States based on respect and sovereign equality and enabled an environment of genuine peace and security to flourish.

74. **Mr. Li Yongsheng** (China) said that, as a permanent member of the Security Council, China had strictly abided by international law and been a staunch guardian and active builder of the rule of law at the international level. Several concepts put forward by the President of China in recent years — including building a new type of international relations featuring win-win cooperation, fostering a community with a shared future for mankind and adopting the right approach to upholding justice and seeking interests — built upon the spirit of the Charter of the United Nations and should become new values and objectives of the rule of law at the international level. The signing of a joint declaration between China and the Russian Federation in June 2016 on the promotion of international law marked an important experiment and practice carried out by China and another country in maintaining the rule of law at the international level.

75. China was a party to nearly 500 multilateral treaties and had consistently abided by the fundamental principle of *pacta sunt servanda*, fully and faithfully complying with its treaty obligations. Before becoming a party to a treaty, it formulated or amended relevant laws and regulations to meet the requirements of the treaty and create the necessary conditions for its implementation. Some multilateral treaties could be applied directly after their entry into force for China; that was the case mainly for treaties in the civil and commercial areas. In order to leverage the multilateral treaty process to promote and advance the rule of law at the international level, it was important to pay

attention not only to the negotiation of treaties but also to their implementation. Countries should implement treaties in good faith and take care to avoid misinterpretation and abuse in violation of the basic principles of international law and in departure from the original legislative intent of the treaties.

76. Ensuring equal access to legal protection regardless of citizens' economic conditions and social standing was a key element of the principle that everyone was equal before the law. His Government had adopted several measures to safeguard access to justice for citizens, in particular vulnerable groups. The regime of laws, regulations and policies had been enhanced to protect parties' right to litigate, and the mechanism for judicial protection of human rights had been continuously improved to build fair judicial procedures and ensure that parties could exercise their litigation rights without impediment. Legal assistance had also been strengthened through a legal aid structure organized by the Government, with services provided by lawyers and grass-roots legal aid professionals, supplemented by social volunteers. In addition, the protection of special groups had been enhanced in order to safeguard the legitimate rights and interests of the vulnerable. Laws on the rights of the elderly, women, minors and persons with disabilities protected the litigation rights of vulnerable groups.

77. Domestically, the Chinese Government implemented a policy of governing the country according to law in a firm and comprehensive manner. It had also continued its consistent effort to maintain and promote the rule of law at the international level. It stood ready to join other countries in a concerted effort to implement, safeguard and promote the rule of law, and would continue to work with States directly concerned to resolve the relevant disputes in the South China Sea, through negotiations and consultations based on respect for historical facts and in accordance with international law. With regard to the so-called arbitration unilaterally initiated by a certain country and the award rendered by the arbitral tribunal, the Chinese Government had issued statements and a white paper which clearly set out its position: the arbitration and the award were null and void and had no binding force. China neither accepted nor recognized them. Currently, thanks to concerted efforts by China and countries of the Association of Southeast Asian Nations (ASEAN), the situation in the South China Sea

was progressing in a positive direction. In September 2016, a joint statement had been adopted, reaffirming all parties' commitment to implement fully and effectively the Declaration on the Conduct of Parties in the South China Sea. Those achievements reflected the determination of China and ASEAN countries to manage and control disputes within the framework of regional rules, deepen practical maritime cooperation, enhance mutual trust and jointly maintain peace and stability in the South China Sea.

78. **Ms. Nakarmi** (Nepal) said that her delegation attached great importance to the rule of law at the national, regional and international levels and firmly believed that it was a core principle of governance for promoting peace, stability, justice, democracy, freedom, equality, equity and sustainable development with greater transparency and accountability across the globe. Nepal reiterated its unflinching adherence to the purposes and principles enshrined in the Charter of the United Nations, particularly Article 2, which emphasized the principles of sovereign equality of States and equal opportunity to participate in the international law-making process.

79. Nepal had adopted a new democratic, inclusive, rights-based Constitution in September 2015. It guaranteed human rights, the rule of law and the independence and competence of the judiciary and promoted social and cultural solidarity, tolerance and harmony through proportional, inclusive and participatory mechanisms. It also ensured that there would be no discrimination on the basis of ethnicity, language, religion, age or gender. Legal and institutional frameworks had been put in place to strengthen the rule of law and protect the rights of women, children, indigenous groups, minorities, Dalits, Madhesi and other marginalized and disadvantaged groups. The Government had also made free legal aid services available to such groups with a view to facilitating access to justice for all. Concrete steps taken to ensure the maintenance of international peace and security included the establishment of legal and institutional frameworks to combat terrorism and extreme forms of violence, money-laundering, organized and trans-border crime, human trafficking and trafficking of narcotic and psychotropic substances.

80. Her delegation acknowledged the strong relationship between the rule of law and development and remained committed to the achievement of Sustainable Development Goal 16 as a means of fostering public trust in government institutions and promoting a peaceful, safe, stable and prosperous society. Despite being a least developed country, which was also emerging from armed conflict and grappling with the aftermath of a devastating earthquake, Nepal had mustered the collective resolve to eradicate poverty and hunger, foster sustainable economic growth and combat inequalities within and between countries. Nevertheless, like other developing countries, it faced challenges relating to resources and capacity. International partnership and collaboration in tackling those challenges would strengthen the rule of law and access to justice for all. At the same time, efforts to strengthen the rule of law at the national level would mean little if they were not complemented by a just international economic and financial order.

81. **Ms. Yparraguirre** (Philippines), speaking in exercise of the right of reply, said that the United Nations Convention on the Law of the Sea, to which both the Philippines and China were parties, provided that the award of the arbitral tribunal in the South China Sea Arbitration was final and must be complied with by the parties. The Philippines had announced at the highest level its readiness to engage with China to move forward on the resolution of the dispute. At the same time, it had announced that the award should be the starting point for negotiating a resolution. The award was definitely not null and void, and it could not be ignored. The arbitral tribunal, in its award on jurisdiction and admissibility of 29 October 2015, had established its jurisdiction, which applied to China, even if the latter had chosen not to participate in the proceedings. The tribunal had also held that the decision by the Philippines to commence arbitration unilaterally had not constituted an abuse of the dispute settlement procedures under the Convention.

82. In its award of 12 July 2016 on the merits of the case, the tribunal had ruled that Chinese claims to historic rights or other sovereign rights or jurisdiction with respect to the maritime areas of the South China Sea encompassed by the so-called nine-dash line were contrary to the Convention and thus were without lawful effect. The Convention defined the scope of maritime entitlements in the South China Sea and had superseded any historic or other sovereign rights. The

tribunal had also ruled that none of the maritime features claimed by China in the South China Sea was an island within the meaning of article 121 of the Convention and therefore none of them could generate an entitlement to an exclusive economic zone or continental shelf. The tribunal had further found that Mischief Reef and Second Thomas Shoal lay within 200 nautical miles of the coast of the Philippines on the island of Palawan and were located in an area that did not overlap with the entitlements generated by any maritime feature claimed by China. Mischief Reef and Second Thomas Shoal formed part of the exclusive economic zone and continental shelf of the Philippines.

83. The tribunal had ruled that China had breached its obligations under various articles of the Convention through its construction of installations and artificial islands at Mischief Reef, the operation of its marine surveillance vessels in the area of the Reed Bank and its promulgation of a moratorium on fishing in the South China Sea without exception for areas falling within the exclusive economic zone of the Philippines and without limiting the moratorium to Chinese flagged vessels. Furthermore, China had tolerated and failed to exercise due diligence to prevent fishing by Chinese flagged vessels at Mischief Reef and Second Thomas Shoal and had thus failed to exhibit due regard for the sovereign rights of the Philippines with respect to fisheries in its exclusive economic zone. By virtue of the conduct of Chinese law enforcement vessels in the vicinity of Scarborough Shoal, China had created a serious risk of collision and danger to Philippine vessels and personnel, thus violating both the Convention and the International Regulations for Preventing Collisions at Sea.

84. In addition, the tribunal had ruled that China had violated its obligation to preserve and protect the marine environment by tolerating and failing to prevent Chinese fishing vessels from engaging in harmful harvesting of endangered species in various areas and by pursuing its island-building activities, which had caused devastating and long-lasting damage to the marine environment. Lastly, the tribunal had ruled that China had, in the course of the arbitration proceedings, aggravated and extended the disputes between the parties through its dredging, artificial island-building and construction activities in the exclusive economic zone and continental shelf of the Philippines.

85. **Mr. Li Yongsheng** (China), speaking in exercise of the right of reply, said that the statement by the representative of the Philippines was erroneous both in

terms of fact and from a legal perspective. His Government's position with respect to arbitration and the award of the arbitral tribunal was clear and he would not repeat it. History would render a just judgment on the issue. China stood ready to work with ASEAN countries, including the Philippines, in accordance with the Declaration on the Conduct of Parties in the South China Sea to properly handle disputes, enhance mutual trust and jointly maintain peace and stability in the South China Sea.

86. **Ms. Yparraguirre** (Philippines), speaking in exercise of the right of reply, said that arbitration was widely recognized as a peaceful means of resolving disputes. The arbitral tribunal had found, in its award on jurisdiction and admissibility, that the Declaration on the Conduct of Parties in the South China Sea did not limit the Philippines to bilateral negotiations exclusively. This was particularly so if such negotiations proved to be unfair and one-sided. The Philippines had been entitled to pursue other dispute settlement mechanisms, including arbitration. The tribunal had given China every opportunity to state its case, and its absence from the proceedings had not deprived the tribunal of jurisdiction. Decisions by arbitral tribunals were binding, particularly where they related to the interpretation of international agreements and conventions such as Convention on the Law of the Sea. China was therefore bound by the outcome of the arbitration.

87. The arbitration supported the work of ASEAN and China on the development of a code of conduct for the South China Sea. At their most recent summits, ASEAN leaders had underscored the importance of the full and effective implementation of the Declaration on the Conduct of Parties in its entirety and had urged all parties to work expeditiously for the adoption of an effective code of conduct. They had also stressed the importance of undertaking confidence-building and preventive measures to enhance trust among the parties. The code of conduct could be concluded if all parties had the political will and determination to make it happen. The arbitration and the consultations on the code of conduct had moved along parallel tracks, and the Philippines was committed to both. The arbitral award provided a sound basis for moving forward on a rules-based regime in the South China Sea. Non-acceptance of the award by China would have grave consequences for the Convention on the Law of the Sea and for international law in general.

The meeting rose at 6.05 p.m.