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Official Records

President: Mr. Jeremić (Serbia)

In the absence of the President, Mr. Rodney Charles (Trinidad and Tobago), Vice-President, took the chair.

The meeting was called to order at 6.10 p.m.

High-level Meeting on the Rule of Law at the National and International Levels

Agenda item 83 (continued)

The rule of law at the national and international levels

The Acting President: I now give the floor to His Excellency Mr. Koichiro Gemba, Minister for Foreign Affairs of Japan.

Mr. Gemba (Japan): The rule of law is wisdom that humankind has acquired after long years of trial and error. The essence of the rule of law is the supremacy of law over power, ensuring that all power is exercised for the purpose of people's survival and happiness. The idea of the rule of law can be found universally. That is because the survival of humankind is maintained by virtue of mutual love, discourse and mutual support. Where there is society, there is law.

The philosophy of the rule of law has a long history in Asia, including Japan. Buddhism came to Japan in the sixth century. Mahayana Buddhist scriptures taught that kings who uphold the law to do good shall be protected, but kings who ignore the law to do evil and oppress people shall perish. In Japan, in the seventh century, Prince Shotoku, a philosopher-politician,

established the Seventeen-article Constitution, Japan's first body of constitutional law.

The rule of law is a universal philosophy. It is not something unique to Europe, and that should not come as a surprise. That is because while there may be differences in culture or history between the East and the West, human society in itself should be the same.

In my view, the people of Europe have made two great contributions towards establishing the rule of law as a universal political truth for mankind.

The first was to create democracy, a system to establish laws through discussions. Laws must not be arbitrarily forced upon the people; they must be created through dialogue. Today, parliamentary democracies have been widely established in the world, and the laws are made by duly elected peoples' representatives.

Ms. Flores (Honduras), Vice-President, took the Chair.

The second was to create international law, the application of the rule of law in inter-State relations. International law is also created through discourse and agreement among States. The wisdom of settling disputes between States peacefully, in accordance with the law, really took root in the latter half of the twentieth century.

As the representatives of today's international community, we have the responsibility to further promote the philosophy of the rule of law which we have inherited from the past. However, we cannot yet claim that the rule of law has been fully established in

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the international community today. There are so many causes of tension, such as international terrorism, the proliferation of weapons of mass destruction, and issues related to national territories. Now in particular, the acts of violence committed by the Syrian Government against innocent civilians must not be tolerated in the context of the rule of law. We must strive to find ways to solve these issues peacefully, on the basis of the rule of law.

I would like to reiterate today the importance of international courts as a means of settling international disputes peacefully, in accordance with the law. In that regard, in order to facilitate the use of international courts, I call upon all States that have not yet done so to accept the compulsory jurisdiction of the International Court of Justice.

I also call upon States to accede to the United Nations Convention on the Law of the Sea and to the Rome Statute of the International Criminal Court.

I should also like to reiterate the importance of international cooperation in advancing the rule of law at the national level. Assistance to developing countries is especially important. In that connection, it is essential to develop legal systems and human resources in each State. Based on its own experience, Japan has been extending support in various forms in this area and remains committed to doing so.

Looking back at the twentieth century, we see that the driving force of human society was not just the massive economic dynamism created after the industrial revolution, nor was it just modern military power, including nuclear weapons. In the end, the greatest driving force behind history is the will of the people to pursue peace, liberty and equality.

Mankind has now understood the truth that when the will of the people is elevated to the level of norms, such norms become laws, and laws bind power. That is a truth that we must not forget, as we are the ones responsible for the fate of mankind in the twenty-first century.

The Acting President (*spoke in Spanish*): I now give the floor to His Excellency Mr. Villy Søvndal, Minister for Foreign Affairs of Denmark.

Mr. Søvndal (Denmark): I wish at the outset to align myself with the statement made by the observer of the European Union.

Today, with the adoption of the Declaration (resolution 67/1), the international community has expressed its will to strengthen the rule of law so as to promote global peace, security and stability.

Today we have also affirmed that the rule of law is strongly interlinked with the obligations of our States to respect and promote respect for international human rights and humanitarian law, and to provide legal protection for all without discrimination.

Today, confronted with the global challenges of recovering from the financial crisis and eradicating poverty, we have highlighted the important interrelationship between the rule of law and the generation of economic growth, sustainable development, employment and better opportunities.

Allow me to thank President Jeremić for having trusted the representatives of Denmark and Mexico with the task of co-facilitating the Declaration adopted today. For both our countries, the rule of law is a core value and a principle of governance. I wish also to thank the Secretary-General for his vision of advancing the rule of law as a critical enabler of the three main pillars of the United Nations: international peace and stability, development and human rights.

Seen from the perspective of Denmark, as a smaller State, the rule of law provides a common framework for addressing problems that transcend borders. The rule of law is a fundamental condition for creating a level playing field and for preventing and addressing conflict.

Denmark is convinced that a rights-based approach to development is necessary. That approach is clearly reflected in the new Danish strategy for our bilateral development assistance, entitled "The right to a better life".

The strategy recognizes in particular the importance of ensuring that women, children and vulnerable groups have unhindered and equal access to justice, decision-making, resources and opportunities.

Denmark views the fight against impunity as an important element of the rule of law. This year we are celebrating the tenth anniversary of the entry into force of the Rome Statute. The International Criminal Court (ICC), through hard work and the support of the current 122 States parties, has gained an important foothold in the fight to ensure that those responsible for the most serious international crimes are held accountable. But

the Rome Statute system is still in its early days and in need of continuing political support. Denmark calls upon all Member States to lend their full support to the ICC and for those Member States that have not yet done so to join the Rome Statute.

While we work to make the International Criminal Court a universally recognized and effective body, it must be remembered that the primary responsibility for prosecution rests with the countries themselves. International courts such as the ICC are complementary. They constitute a last resort, when national authorities fail to act. We therefore encourage States to strengthen national judicial systems and institutions.

On behalf of Denmark, I want to thank all Member States for their contributions to our joint Declaration. Denmark believes that there is a need for an ongoing process to see how the rule of law can help meet the evolving global challenges we face. States will pursue that work, but civil society also has much to contribute to advancing the rule of law and human rights.

I welcome the many pledges made at today's High-Level Meeting. Denmark has also made several pledges today. Denmark looks forward to engaging in advancing the rule of law in cooperation with Member States, the United Nations and civil society organizations.

The Acting President (*spoke in Spanish*): I now give the floor to Her Excellency Ms. Aurelia Frick, Minister for Foreign Affairs, Minister for Justice, and Minister for Cultural Affairs of the Principality of Liechtenstein.

Ms. Frick (Liechtenstein): In 2006, Mexico and Liechtenstein jointly requested the inclusion of an item entitled "The rule of law at the national and international levels" in the agenda of the General Assembly. Since then, much progress has been made. We applaud the hard work of the United Nations Rule of Law Coordination and Resource Group and we are confident that under the leadership of Deputy Secretary-General Jan Eliasson the Group will rise to new levels.

I would like to focus on the pledges that Liechtenstein has made.

Our first pledge is to continue to promote the ratification and implementation of the provisions of the Rome Statute of the International Criminal Court (ICC) with regard to the crime of aggression. The importance of the 2010 Kampala compromise for the rule of law and for the United Nations cannot be

overstated. It is not just a technical matter to define the crime of aggression in international law, and it was no small thing for States parties to the Rome Statute to agree on the conditions under which the ICC can investigate and prosecute perpetrators. The ICC would be prosecuting leaders who are responsible for the most serious forms of the illegal use of force against other States. Ultimately, what the Kampala compromise did was to establish a new mechanism to enforce Article 2, paragraph 4, of the Charter of the United Nations, which prohibits States from using force against another State in any manner inconsistent with the purposes of the United Nations. The ICC will thus bring justice and its deterrent effect to a whole new place. It will protect States from aggression by other States. It will protect and enforce the United Nations Charter.

Liechtenstein was proud to be the first State to ratify the amendments on the crime of aggression, on 8 May, the anniversary of the end of the Second World War in Europe. We will support the ongoing ratification process through advocacy and with technical assistance, and we are willing to receive requests for assistance at any time. We are convinced that more States parties will ratify the amendments in the coming years in order to strengthen the implementation of the United Nations Charter and enable the activation of the Court's jurisdiction in 2017.

Our second pledge is to continue to promote the strengthening of political support for the ICC by convening an informal ministerial network. I will launch that initiative in two days, here in New York, with a number of ministers who have personally committed to the ICC. I believe that such an informal network at the political level is precisely what the Court needs as it continues to carry the flag of justice in a challenging international environment. It goes to the core of the dilemma that the Court is confronted with — the ICC is a purely judicial institution that mainly stands up for itself by delivering professional, independent and non-political investigations and prosecutions. It is not designed to have the necessary tools to withstand political headwinds, and therefore it does not have them. That is particularly true in situations where it is mandated by the Security Council to undertake delicate investigations, and even more so when the Security Council fails to fully support the Court after it refers a situation. We supporters must therefore stand up for the Court in the political arena. Have we done enough in that regard in recent years? In my view, far

from it — and that is why we are launching this new collaboration in support of the ICC.

Our third pledge is to submit to the Security Council suggestions on ways to strengthen the United Nations sanctions system. We have been working with like-minded countries for several years to improve the listing and delisting processes and to bring some measure of due process to targeted sanctions. We applaud the Security Council for the improvements made in some areas, in particular by establishing an ombudsperson for individuals and entities that have been identified as being associated with Al-Qaida. We also acknowledge that those procedural improvements were not easy to make, because the Security Council was not designed to deal with individuals when it was created.

Today, fair and clear procedures for sanctions listing and delisting are no longer an experiment. Higher standards for listing and the ombudsperson process have improved the accuracy of the Al-Qaida sanctions list, and therefore its credibility. It is a prime example of how promoting the rule of law is not just something for lawyers, but a tremendous political tool. Now is the time for the Security Council to learn the lessons from those early developments and to apply them to other sanctions regimes as well. We look forward to working with our like-minded partners to make concrete suggestions in that regard.

The Acting President (*spoke in Spanish*): I now give the floor to the representative of Ecuador.

Ms. Espinosa (Ecuador) (*spoke in Spanish*): My delegation wishes to express the pleasure of my Government for the organization of today's High-level Meeting.

As Article I of the Political Constitution of Ecuador states that my country is a constitutional State of rights and justice — social, democratic, sovereign and independent. Under those premises, we consider the rule of law to be a pillar for peaceful coexistence among citizens and nations. We therefore defend the equality of citizens before the law and the sovereign equality of States as established under the Charter of the United Nations, whereby no motivation or circumstance would be a reason for violating human rights or the sovereignty of States. At the national level, Ecuador recognizes for all citizens, men and women, national and foreign, the same rights and obligations, affirming the equality before the law of all citizens and guaranteeing access

to an efficient and transparent judicial administration system.

My Government believes that it is extremely important to comply with the international conventions and instruments that protect human rights and ensure their implementation at home. Ecuador is a signatory to all the universal human rights conventions and instruments, because we believe that protecting those guarantees without distinction is a vital element of peaceful coexistence and the full enjoyment of democracy. Ecuador therefore not only defends those rights internationally but puts them into practice as part of its foreign policy in the area of, for instance, the right to asylum and refuge.

The rule of law should help us deal with society's evolution and with emerging problems that affect humankind. The current environmental and climate crisis forces us to think about the need for an international body of law that guarantees the rights of nature, as my country's Constitution does. In that regard, Ecuador proposes that the international community begin the process of producing a universal declaration on the rights of nature. The rule of law is also a basic tool for the development of peoples and for establishing clear rules for encouraging foreign investment that are responsible and respectful of labour and environmental laws. We therefore favour the development of national standards and mechanisms that will ensure the full enjoyment of democracy and put in place mechanisms that can more effectively ensure its operation.

We respect the right of every people to decide its own political system. Ecuador therefore believes that it is crucial that we encourage reform of the Security Council, a body whose structure is still based on the realities of half a century ago and which upholds privileges for some States to the detriment of others. Ecuador therefore renews its call to the international community to conclude the negotiations on Security Council reform, which should not only reflect the new international scene and geopolitical situation but should also ensure that its operations are democratic and transparent.

We also believe in respect for the sovereignty and territorial integrity of States, a principle that is a fundamental and irreplaceable pillar of the rule of law. We do not believe that the pretext of protecting national security justifies encouraging the violation of national sovereignty or a State's territorial integrity. We therefore firmly repudiate the so-called extra-

territorial application of national laws as a serious violation of the rule of law at the international level.

Similarly, any unilateral means adopted outside the framework of the United Nations Charter are clear violations of the rule of law at the international level. Peaceful coexistence among the community of sovereign States is founded on rules freely accepted by all; thus the will of one State cannot legally validate the use of force as a way of resolving disputes. Nor can we use the excuse of protecting national security or combating transnational threats to contravene the provisions of the Charter.

It is vital that we strengthen regional mechanisms that support democracy and the rule of law, since thereby we strengthen the democratic existence of Governments that are legitimately constituted. Latin America has made great progress in that area. In that regard, I would like to highlight the existence of the democracy clause agreed on by the heads of State of the Union of South American Nations, which aims to guarantee democracy in the region.

With regard to strengthening the rule of law nationally, the Government of Ecuador attaches great importance to a complete overhaul of the judicial code through comprehensive modernization that makes use of the most up-to-date technology, meritocracy, efficiency and transparency in its operations. Similarly, the existence of accountability mechanisms, transparency in public funding, public access to information and the strengthening of monitoring agencies that enable us to prevent and correct abuses and ensure proper spending of financing for public judicial bodies are all essential to the administrative justice system in Ecuador. My Government is firmly committed to making progress in this area.

Lastly, it is essential to ensure that the alternative mechanisms for the administration of justice based on the law of indigenous peoples are compatible with the traditional systems, ensuring that such alternative systems respect the human rights of those governed, as covered by the conventions and international instruments ratified by a State.

My delegation attaches great importance to developing the rule of law, both nationally and internationally. We have full confidence in the work being done by the Sixth Committee, whose role cannot be replaced by high-level committees, groups of experts or forums outside the Assembly, which is the highest

legislative body of the Organization and the only international forum whose purview allows it to lead the process of developing and strengthening the rule of law.

The Acting President (*spoke in Spanish*): I now give the floor to His Excellency Mr. Pierre Moukoko Mbonjo, Minister for External Relations of Cameroon.

Mr. Moukoko Mbonjo (Cameroon) (*spoke in French*): I take the floor on behalf of the President of our Republic, His Excellency Mr. Paul Biya, whom circumstances have unfortunately detained in Cameroon. He has asked me to deliver the following message to the General Assembly.

“I would first like to thank the President of the General Assembly for convening this High-level Meeting on the Rule of Law at the National and International Levels. I would also like to welcome Secretary-General Ban Ki-moon’s efforts in this important area, and particularly the report he delivered at the Assembly’s sixty-third session (A/63/226).

“Seven years after the 2005 World Summit, our meeting today gives us the opportunity to evaluate and reaffirm our joint commitment concerning the issue of the rule of law at the national and international levels, as a fundamental value of the Organization. In the light of the many political crises that have recently rocked the world, particularly in Africa, the concept of the rule of law has become a matter of special concern for States emerging from conflict. In that regard, we are seeing an ongoing search in which every country, including those of the Old World, is engaged.

“Intimately linked to the respect for human rights and the equality of all before the law, the rule of law today has become part of what determines the legitimacy of public power. However, it should not be confused with a simple instrument for the political and legal protection of the individual; it must also be seen as a way of enriching humankind politically, economically and socially. We must never forget that one of the greatest injustices a person can endure is to be unable to feed or clothe himself, to find shelter, to be cared for or live in safety. In a word, the first function of the rule of law is to act as a defence for individuals against being deprived of the basic requirements for human dignity.

“We must also keep in mind that the full protection of individual rights and freedoms is impossible except through the principle of indivisibility and an equitable application of all human rights, including civil and political rights, economic, social and cultural rights and the right to development. In our view, that is the correct perspective to guide the actions of the United Nations and Member States in promoting the rule of law at the national and international levels.

“The track record of the Organization shows that it is increasing its actions at the international level. It is in the interest of the international community for the United Nations not only to recommit to the founding principles of the Charter but also to stress the obligation of States to abide by international law. The United Nations should promote equality before the law, both nationally and internationally. It is in everyone’s interest for States not to approach international law by means of the unequal exercise of power.

“It would be paradoxical for the community of nations to work to sow democracy and the rule of law in the internal political and judicial workings of States while ignoring those values in its own international intervention mechanisms. From that point of view, the much-anticipated reform of the Security Council takes on a crucial urgency. We should recall that one potential source of dysfunction at the national and international levels is the lack of, or disregard for, regulatory mechanisms. The best way to ensure the primacy of international law in the settlement of disputes, which is the special theme of this session, and more generally in relations among States, lies in strengthening the International Court of Justice. The 2005 World Summit Outcome (resolution 60/1) focused on the important role of the principal judiciary organ of the United Nations and urged all countries that had not yet done so to accept its jurisdiction. The International Court of Justice plays a critical role in consolidating the rule of law internationally. It is a principle to which we attach great significance, as evidenced by our handling of the Bakassi peninsula dispute.

“In Cameroon the rule of law is tied to both individual and collective development, as shown in our adoption and implementation of development programmes and policies that are both ambitious and realizable, alongside promoting democratic values

in our sociopolitical life. In the sphere of political institutions, we tirelessly pursue democratization, with an eye to fostering pluralism and citizen participation at all levels of public affairs. We are also continuing to bolster civil liberties, especially freedom of the press and other media.

“As for good governance and the fight against corruption and embezzlement, we are strengthening our efforts to stabilize and clean up the public sector. Finally, in the realm of economic and social development, we are engaged in a programme for major works, working to fulfil the economic rights of our citizens. Cameroon reaffirms its chosen path of peace and stability, without which any attempt to enact the rule of law is meaningless. without the rule of law there can be no human dignity.”

The Acting President (*spoke in Spanish*): I now give the floor to His Excellency Mr. Arnold Nicholson, Deputy Prime Minister and Minister for Foreign Affairs and Trade of Jamaica.

Mr. Nicholson (Jamaica): The Government of Jamaica welcomes the initiative of the United Nations in convening this High-level Meeting on the Rule of Law at the National and International Levels, given the acknowledged importance of the subject at both the national and the international levels. History has shown that being faithful to the primacy of the rule of law is a sine qua non for proper democratic practices in the search for a just and peaceful society and, by extension, geopolitical stability.

The Jamaican Constitution came into effect 50 years ago on the occasion of our independence. It is the highest law in Jamaica and it is the very foundation on which our value systems and ideals are built. The Constitution treats a number of time-honoured democratic fundamentals, such as citizenship, basic human rights and freedoms and the three branches of Government, the executive, the legislative and the judiciary. Full adherence to, and the effective protection of, the rights enshrined in those provisions are crucial to upholding the rule of law at the national level. In recognition of that, we have amended Chapter III of our Constitution, which contained provisions on fundamental rights and freedoms, and replaced it with a more comprehensive Charter of Fundamental Rights and Freedoms. That Charter, which came into effect in April 2011, now provides for a more modern approach to certain fundamental freedoms, as well as to established civil and political rights.

We remain mindful that the rule of law is not restricted to the national level. The foundation principles of justice, fairness, accountability and transparency are inextricably linked to its effective enforcement at the international level. To that end, the Charter of the United Nations represents a body of principles, which we all solemnly pledged to uphold upon becoming a part of the Organization. Those principles speak to the sovereign equality of all its Members and the development of friendly relations among nations, based on respect for the principle of equal rights. They beckon us to refrain from the use or threat of force and to settle disputes by peaceful means, to promote and encourage respect for human rights and for fundamental freedoms and to foster international cooperation in facing international challenges of an economic, social, cultural or humanitarian nature.

The Government of Jamaica is of the view that a strengthened General Assembly and the continued reform of the Security Council will contribute in a more positive manner to the advancement of the rule of law at the international level. In that regard, we are convinced that a more representative, efficient, accessible and transparent Security Council will further enhance both the effectiveness and the legitimacy of the Council.

In my own country we face the ever-strengthening challenge of armed violence that is linked to the illicit trade in small arms and light weapons and the illegal drug trade. The threat posed by organized crime not only attacks the sovereignty of the State but constrains our capacity to protect civilians. That therefore has immediate implications for our ability to uphold the rule of law.

International cooperation and assistance, then, are crucial in allowing countries to meet their own national objectives that are inherent in upholding the rule of law. Those include the implementation of the Millennium Development Goals and enhanced cooperation with our bilateral partners.

The complex nature of, and the increase in, highly sophisticated illegal activities, such as cybercrime, have underscored the importance of compliance with international obligations, including those related to terrorism, narco-trafficking and organized criminal enterprise. In addition, however, technical assistance is needed to tackle those and other new challenges, such as those related to financial crimes.

In conclusion, we urge the United Nations to sustain its engagement on those issues in an inclusive and transparent manner. We pledge our commitment to upholding the rule of law at the national level and to working with our partners at the bilateral, regional and international levels in what inevitably must be a global endeavour.

The Acting President (*spoke in Spanish*): I now give the floor to His Excellency Mr. Mourad Medelci, Minister for Foreign Affairs of Algeria.

Mr. Medelci (Algeria) (*spoke in French*): The theme of the rule of law at the national and international levels, which brings us together today, gives us an opportunity to renew our common ambition to give priority to the preeminence of the rule of law. This meeting is an opportunity to reaffirm our desire to strengthen international law and the universal principles and objectives of the Charter, which are the basis of the international system.

Algeria is prepared to make its contribution to that community of the future, enriched by the diversity of our national realities, which enshrine the equality of large and small countries in participating in multilateral deliberations. The new challenges of this period of transition emphasize the urgency of putting at the centre of our concerns the imperatives of justice, development, responsibility and accountability. We all know that improving the rule of law is a perpetual requirement. Without that, impunity, injustice and the policy of double standards will continue to erode the moral authority of the multilateral system and of international law.

From that standpoint, the General Assembly must rearrange its prerogatives and the Security Council must be democratized. Likewise, there has to be more coordination between the United Nations and multilateral institutions in the economic and financial areas. In that regard, Algeria deplores the lack of a settlement to the Palestinian problems, which are more than 60 years old. That failure acutely demands the application of the right to self-determination, a cardinal principle of the Charter and a legitimate aspiration of the Palestinian people. The same applies to the Saharaoui people.

Furthermore, the rule of law cannot accommodate hateful and xenophobic manifestations, which in particular include the phenomenon of Islamophobia. Consequently, how can we accept that the freedom of

expression dear to us all is set up as an end in itself, in the name of which defamatory acts are authorized against religions, including Islam? Algeria suggests that a mechanism be established under United Nations auspices to examine the ways and means to put an end to such tendencies and to make sure that the freedom of expression will be at the service of mutual comprehension and the advent of a more united and fraternal world.

Urgent and effective solutions are also required to address the new transnational threats. Algeria is working with the countries of the Sahel to strengthen the rule of law, security and peace in the region. Regional cooperation has been undertaken to combat underdevelopment, corruption and terrorist groups and their interconnections with organized crime networks.

At the national level, Algeria, encouraged by the gains of the national reconciliation policy, is confidently pursuing its reform programme to establish democracy and the promotion of fundamental rights, including the participation of women in decision-making. In that context, pride of place is given to schools, which of all public services specifically help to train citizens.

In Algeria the enjoyment of political freedoms is enhanced by the equitable redistribution of wealth. The protection of democracy is also ensured by the State's help for citizens in need.

I should like to congratulate the President and Secretary-General Ban Ki-moon for organizing this High-level Meeting on an extremely important theme, the results of which will certainly contribute to consolidating the rule of law nationally and internationally.

The Acting President (*spoke in Spanish*): I now give the floor to His Excellency Mr. Uri Rosenthal, Minister for Foreign Affairs of the Kingdom of the Netherlands.

Mr. Rosenthal (Netherlands): Early this morning, we had a side event on the peaceful settlement of disputes, with the participation of, among others, the President of the International Court of Justice and the Secretary-General of the Permanent Court of Arbitration. The side event was attended by many people who share the common notion that the peaceful settlement of disputes is an important part of the promotion of the rule of law.

Dutch legal scholar Hugo Grotius was far ahead of his time. In 1625 he wrote, "There is a common law among

nations, which is valid alike for war and in war", thereby laying the foundation of modern international law. I do not quote Grotius without reason. The Netherlands has contributed to international law for centuries. In 1899 and 1907, The Hague Peace Conferences were held, and not long afterwards the Peace Palace opened its doors. International law is practised in the Netherlands to this very day in the Peace Palace, as well as in many other international courts and tribunals.

Promoting international law is dear to our hearts. As an open society and an open economy, the Netherlands depends upon a strong international order, and therefore we do need the rule of law.

Challenging impunity is a vital part of promoting the rule of law. It is important that the perpetrators of crimes against humanity be held to account, regardless of their positions — whether they are heads of State or other prominent people. The recent sentencing of former head of State Charles Taylor by the Special Court for Sierra Leone demonstrates that the international community has made great progress in this area.

It is preferable to prosecute perpetrators in the country where crimes were committed; but if a State is unable or unwilling to do so, the duty falls on the international community. We therefore firmly support the International Criminal Court, and we call upon States to ratify the Rome Statute. The Netherlands also supports effective investigation and prosecution of international crimes at the national level. Therefore, together with Belgium and Slovenia, we will launch an initiative for a new international instrument on mutual legal assistance and extradition.

The Netherlands is firmly committed to the peaceful settlement of disputes. The International Court of Justice, for instance, certainly needs to be strengthened through the universal acceptance of compulsory jurisdiction. The Government of the Netherlands therefore supports the campaign launched by the Secretary-General in his rule of law report last March (A/66/749).

We are also promoting the rule of law at home by establishing in the Netherlands a new institute for human rights to further promote the cause of the rule of law.

In the Netherlands we continue to take seriously the importance of the rule of law. Former Secretary-General Boutros Boutros-Ghali was the first to call The Hague "the legal capital of the world", and we are proud

of that. Next August, the Peace Palace in The Hague will celebrate its centennial. To mark that milestone, the Netherlands will organize a meeting to promote and advance the peaceful settlement of disputes, thus showing the world that we still want to play a leading role in promoting international law, as we did when Hugo Grotius wrote his famous work *On the Law of War and Peace* so many centuries ago.

The Acting President (*spoke in Spanish*): I now give the floor to Her Excellency Wivine Mumba, Minister of Justice and Human Rights of the Democratic Republic of the Congo.

Ms. Mumba (Democratic Republic of the Congo) (*spoke in French*): In preparing for this meeting, the Secretary-General said in his report that "Respect for the rule of law at the international and national levels is central to ensuring the predictability and legitimacy of international relations, and for delivering just outcomes in the daily life of all individuals" (A/66/749, summary). How then can one not condemn the disrespect by one State for the intangible principles of the national sovereignty and territorial integrity of another State, especially when the result is to prevent the latter from firmly establishing the rule of law?

The presence of Rwanda in the east of the Democratic Republic of the Congo is therefore doubly to be condemned, because it violates international law and undermines the progress made in promoting the rule of law in the Democratic Republic of the Congo. It has triggered the massive displacement of whole groups of people, in particular of women and children, and has caused the resurgence of massive human rights violations, including the recruitment of child soldiers and acts of violence against women such as the abduction of women and girls by armed groups, who force them into sexual slavery, which infects them with HIV/AIDS and causes a surge in atrocities of every type, comparable to war crimes and crimes against humanity. In any case, the seriousness of the crimes demands an appropriate legal response. However, the response to this situation requires concerted action by the Congolese State and the international community.

As the Secretary-General has said, it is the responsibility of Member States and their citizens to strengthen the rule of law. The United Nations is ideally positioned to uphold the action of its Member States and to offer comprehensive and effective support. In practice, in order for that support to be truly comprehensive and effective, it is imperative that the United Nations and

the Security Council adapt the mandate of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo, whose activity we welcome, to the realities and needs on the ground.

The accomplishments of the Democratic Republic of the Congo in promoting the rule of law include the following.

The Congolese Government held a referendum leading to the adoption of the Constitution of 18 February 2006, which lays the foundation for the reform of our justice system as the engine for restoring the rule of law, affirms the independence of the judiciary, and defines a new organization of Congolese justice. In addition, more specifically, that reform seeks to promote and encourage the implementation of judicial policy through improved access to justice, a stronger framework for promoting and protecting human rights, enhanced capacities, and improved performance of actors in the justice system and the fight against corruption and impunity.

Moreover, the Democratic Republic of the Congo has ratified almost all international treaties on human rights and, since 1999, has had in place a national plan for the promotion and protection of human rights, which was updated in 2009. Along the same lines, at an institutional level, the Congolese Government has established a human rights liaison entity.

With respect to the promotion of women's rights, the Democratic Republic of the Congo has ratified the Convention on the Elimination of All Forms of Discrimination against Women and has adhered to the Beijing Programme of Action. It also has a national programme to promote Congolese women, a national gender policy and an action plan to combat gender-based and sexual violence.

With respect to the promotion and protection of children's rights, on 10 January 2009 the Democratic Republic of the Congo enacted a law to protect children through the creation of courts for children, whose installation commenced in 2011.

With regard to promoting democracy, the Constitution adopted by referendum on 19 December 2005 enabled the successful holding of the first general elections, on 30 July 2006, which were free, transparent and democratic, with a term that expired in November 2011.

As for transnational organized crime, the Democratic Republic of the Congo has ratified a number

of international instruments to combat terrorism and transnational organized crime and is currently reviewing a number of laws, including the law on the fight against money-laundering and the financing of terrorism, as well as one on combating corruption.

In the light of what I have mentioned, the Democratic Republic of the Congo is contributing to promoting the rule of law by adhering to the primary judicial instruments of the United Nations and its own internal plans for reform. In line with that policy, the Democratic Republic of the Congo has made a series of commitments.

We are accelerating the legislative reforms currently under consideration, in particular those regarding compensation to the victims of sexual violence, implementation modalities for women's rights and equality, and the modification and repeal of certain discriminatory provisions of the family code.

We are accelerating the adoption of the draft legislation on establishing a national human rights commission. We are reactivating a moratorium on the death penalty, reducing duration of preventive detention, formalizing the procedure of presidential clemency, and reducing the number of crimes for which the death penalty can be imposed. We are making a commitment to sign, jointly with the special team of the United Nations, an action plan to combat the recruitment and use of children as well as other grave violations of the rights of children by armed groups and security services. We are establishing machinery and a strategy to combat corruption. We are implementing the Rome Statute in the context of the International Criminal Court.

In so doing, the ongoing reform process of our legal system shows that the Democratic Republic of Congo remains determined to establish and maintain a system of justice that is fair, reliable, moral and effective, in accordance with the Charter of the United Nations and international law, so as to support the principles of a permanent rule of law.

The Acting President (*spoke in Spanish*): I now give the floor to His Excellency Mr. Dato Sri Anifa Aman, Minister for Foreign Affairs of Malaysia.

Mr. Aman (Malaysia): On 13 September 2006, the General Assembly decided to include in its agenda an item entitled "The rule of law at the national and international levels" with the broad support of all Member States.

Today, we convene the inaugural High-level Meeting on the Rule of Law, which reflects our resolve to strengthen the rule of law at both the national and the international levels.

I wish to thank the President of the General Assembly for convening this important meeting. I also wish to align my statement with that made by the representative of Thailand on behalf of the Association of South-East Asian Nations.

The Declaration (resolution 67/1) that we adopted earlier today symbolizes our collective commitments to strengthening the rule of law in areas of mutual interest, such as ending impunity for violations of international humanitarian and human rights laws, as well as democracy, justice and human rights, among others. There is a symbiotic relationship between the rule of law at the national and international levels; we must therefore ensure that equal emphasis is given to both.

At the domestic level, Malaysia believes that States must, among other things, honour international obligations in good faith, ensure the domestic implementation of their international obligations, promote and protect human rights and fundamental freedoms, and ensure the effective administration of justice.

Allow me to share some of our initiatives in strengthening the rule of law at the national level. The foundation of the rule of law in Malaysia is its federal Constitution, which is the supreme law of our nation. Based on the fundamentals therein, Malaysia continues to take measures to enhance and improve its laws, using the principles of democracy, equality before the law and the rules of natural justice.

This year, the Internal Security Act of 1960 was repealed and replaced by the Security Offences Special Measures Act of 2012. Changes that have taken place in the country over the past decade do not justify the continued application of the older law. That demonstrates that, while the Government remains committed to ensuring that security is constantly safeguarded, the rights of the people are upheld. The Government has also enacted a Peaceful Assembly Act of 2011, which was done to ensure adequate and proper regulations regarding the right to peaceful assembly, as enshrined in the federal Constitution. In upholding the rule of law, there is a delicate balance between safety and security, on the one hand, and rights and freedom,

on the other. That is what the legislation aims to achieve. Laws cannot be broken under the pretext that one is exercising fundamental rights. That certainly goes against the very notion of the rule of law.

States have legal obligations to abide by international treaties and conventions, based on the fundamental principle of *pacta sunt servanda*. Treaties are binding on the parties to them and must be performed in good faith. That obligation also extends to the national level. Treaty obligations should be transformed or incorporated into domestic legal systems. Malaysia ensures that its international treaty obligations are transformed into necessary legislation, policies and action plans to fulfil treaty obligations. That is how we ensure domestic compliance with international treaties and uphold the rule of law.

There may not be one single definition for the rule of law, but there are certain core elements that we can identify. At the international level, for instance, many of those elements are important principles of international law. Malaysia attaches importance to the following in strengthening the rule of law at the international level: the commitment to an international order based on international law; the obligation of the international community to enforce international law in a non-selective manner; the duty of all States to refrain from the threat or use of force and to settle disputes by peaceful means; and respect for the principles of sovereign equality, territorial integrity and non-interference.

Clear examples of the importance of strengthening the rule of law at the international level are situations where there have been persistent violations of international law. We need to put an end to impunity and hold those responsible accountable for their actions. Big or small, strong or weak, the rule of law shall apply to all. There will be no meaning in our efforts if there are no tangible outcomes to address those types of situations. In that regard, the inclusion of strong language on ending impunity for violations of international humanitarian law and gross violations of human rights laws in the Declaration is very appropriate. However, for it to work, action must be in conformity with international law and the decisions of the United Nations.

What do we do when those responsible continue to violate international law and ignore United Nations decisions? The United Nations should take a decision on non-compliance and enforce it, regardless who

the violators are. No one should be above the law. Furthermore, for situations involving crimes, such as genocide, crimes against humanity, war crimes and serious and gross violations of international humanitarian and human rights laws, the exercise of the veto in the Security Council should be avoided. Only then can we effectively stop those crimes from being committed, stop impunity, uphold the rule of law and make the United Nations relevant and effective.

Malaysia highly values this meeting and believes that it advances our agenda on the rule of law. The international community, through the United Nations, must continue to lead the way for nations to follow.

The Acting President (*spoke in Spanish*): I now give the floor to His Excellency Mr. Kim Sung-hwan, Minister for Foreign Affairs and Trade of the Republic of Korea.

Mr. Kim Sung-hwan (Republic of Korea): Ever since global leaders made a landmark commitment to the rule of law at the 2005 World Summit, we have witnessed an increase in the promotion of the rule of law at both the national and the international levels. In that respect, the Republic of Korea welcomes and embraces the efforts made by the United Nations to strengthen its role in ensuring the rule of law. I wish to take this opportunity to convey my deep appreciation to Secretary-General Ban Ki-moon for his continuing efforts to that end.

It is well known that there are divergent views and understandings about the concept of the rule of law, including formalistic and substantive definitions. Despite such diversity, however, we are convinced that the rule of law should be deeply rooted in certain essential elements, such as justice, morality, territorial integrity and sovereignty. Without due consideration of those elements, the rule of law can be abused as a pretext for the strong to impose their will upon the weak, which we have all too often witnessed in the past among States.

We wish to stress that the rule of law applies to all States equally. Respect for and the promotion of the rule of law and justice should be the guiding principles for stable international relations. As such, we recognize the important contributions that the United Nations, including the International Court of Justice, has made in promoting the rule of law. In particular, and in the light of the critical role that the Court plays in that area, we are of the view that the Court should continue to reflect

the legal diversity of the international community. Furthermore, we believe that no State should ever take advantage of international legal procedures for political purposes.

We have been a strong supporter of full compliance with and the progressive development of international law. Korea has been serving in various international legal bodies, including the International Law Commission, the International Criminal Court and the International Tribunal for the Law of the Sea. Furthermore, we are fully committed to continuing our contributions to various rule-of-law initiatives for disseminating and promoting a wider appreciation of the rule of law.

Without a doubt, respect for the law in the international sphere should also be reinforced and complemented by a commitment to the rule of law at the national level. Peace, democracy, good governance and sustainable development will not be possible without due respect for the rule of law. The principle of legality, an independent judiciary, respect for human rights and access to justice for all are also at the very core of the rule of law at the national level.

My country has been able to achieve material democracy, economic development and the enhancement of human rights in less than half a century. That would not have been possible without our resolute commitment and strenuous efforts to foster and reinforce the principle of the rule of law.

The rule of law has served as a check against the abuse of power and the arbitrary application of laws. It has helped raise awareness of peoples about democratic values and fundamental rights. For Korea, the rule of law has been instrumental in establishing an environment in which entrepreneurship can grow and flourish. Higher education and an efficient public sector have also been key contributing factors to the rule of law, taking deep root within our society.

Finally, I would like to stress that the objectives of the rule of law can be achieved only through active coordination and cooperation among all relevant actors, including States, international organizations and civil society. We will continue to support the efforts of the international community to enhance the rule of law at the national and international levels.

The Acting President (*spoke in Spanish*): I now give the floor to His Excellency Mr. Oleksandr Lavrynovych, Minister for Justice of Ukraine.

Mr. Lavrynovych (Ukraine): Ukraine welcomes this High-level Meeting of the General Assembly, the first in United Nations history to be dedicated to the important issue of the rule of law at the national and international levels.

Ukraine believes that respect for the rule of law at the international level is the basis of international peace and stability, a key precondition for the prevention and settlement of conflicts, and a guarantee of predictability and legitimacy in international relations.

In that regard, Ukraine emphasizes the need to enhance the role and effectiveness of international judicial bodies in addressing issues related to the peaceful settlement of disputes. After all, the effectiveness of such mechanisms is, in our opinion, the key to their increasingly widespread use by members of the international community and an important factor in strengthening the rule of law at the international level.

Ukraine is moving steadily along the path of reforms aimed at strengthening the rule of law at the national level. Furthermore, the rule of law as a principle is stipulated in the Constitution of Ukraine. Unfortunately, Ukraine has become a frequent subject of criticism by certain international organizations and Governments with regard to compliance with that principle. However, in the past few years a number of steps have been taken to establish guarantees of the rule of law in different areas.

In that regard, I would mention public administration reform, judicial reform, large-scale anti-corruption programmes and comprehensive criminal procedure reform, which was a crucial challenge for the Ukrainian authorities for years.

The steps taken by the Ukrainian authorities aimed at achieving maximum openness and transparency in the decision-making process are reflected not only in national legislative initiatives but also in the voluntary international commitments of our country, such as our participation in the international initiative "Open Government Partnership".

Today we reaffirm the determination of Ukrainian leaders to fulfil the commitments made by Ukraine in the field of ensuring effective methods of public administration, promoting equal access to justice for all, fighting corruption and involving civil society in the process of defining and implementing State policy.

Ukraine deeply appreciates the efforts and active participation of the United Nations in dealing with the wide range of global challenges facing us today, which range from climate change, terrorism, human rights protection and the settlement of armed conflict, each of which is closely linked to the issue of the rule of law. Thus, given the existence of that significant international experience, we believe that the United Nations should remain the centre of international efforts to strengthen the rule of law.

We believe that in future one of the priority tasks in strengthening the rule of law should be to increase the effectiveness of international judicial and quasi-judicial institutions. It is crucially important to give new impetus to the process of global nuclear disarmament and the establishment of a nuclear non-proliferation regime. To that end, one of the key elements of such a regime should be to ensure legal security guarantees for States that have renounced nuclear weapons.

The Acting President (*spoke in Spanish*): I now give the floor to His Excellency Mr. Ali Bin Fahad Al-Hajri, Minister of State for Political Affairs of Qatar.

Mr. Al-Hajri (Qatar) (*spoke in Arabic*): The legitimacy of a law-abiding State is built upon the rule of law. It is clear that the broader meaning of the rule of law extends beyond mere respect for law to the substance of the law itself. With regard to the need to protect human rights, therefore, national legislatures must not breach those fundamental rights recognized as necessary for the establishment of a law-abiding State with democratic institutions.

There is no doubt that the supremacy of the law over the State is linked to respect for the rights and freedoms of citizens. In that regard, the Qatari Constitution confirms and guarantees many rules that compel executive authorities to ensure the protection of various rights and freedoms, in order that no individual authority might encroach upon or interfere with the public domain of guaranteed fundamental human rights.

The situation at both the national and the international levels should not differ. Relations among States should be subjected, as a matter of equity, to the rule of law. The political discourse of States must coincide with the provisions of international law and all of its guarantees of the human rights and freedoms of peoples.

If the rule of law breaks down or becomes inequitable, the balance of international peace and security among the international community will be disrupted. It is therefore pointless to seek to promote the rule of law only at the national level or at the international level. Rather, it should be strengthened and promoted at all levels.

Today, we must seek to restore confidence in the rule of law, especially at the international level. It is not easy to stress the rule of law from the perspective of an international community that is ruled by force and conflicting interests. Indeed, events and practices that undermine such confidence are numerous.

Revisiting the achievements we have made since the mid-twentieth century towards establishing an international order based on laws and the principles of international legitimacy and historical global instruments, not least of which is the Charter of the United Nations, will restore confidence in the rule of law.

Debating the rule of law issue is not intended merely to uphold such a regime symbolically, but to realize that the rule of law is crucial for achieving all of our collective goals. Those who seek peace and security should abide by the conditions for peace and security, foremost among which is the rule of law.

Those who seek to achieve development should understand that ensuring the rule of law is one of its components. Those who strive to guarantee human rights must also establish the rule of law. While the rule of law is a prerequisite to the achievement of many goals, achieving the rule of law requires many elements and a principled foundation.

Given that conviction, the State of Qatar has taken action at various levels and in various sectors aimed at achieving good governance, by promoting the principle of the rule of law as a tool in organizing the economic, political and social lives of its citizens. Hence, the rule of law has become an essential element in our national strategy. We always strive to uphold the law, equality before the law, accountability under the law and justice in the application of the law.

In order to uphold the law under the wise leadership of His Highness Sheikh Hamad bin Khalifa Al-Thani, Amir of the State of Qatar, a commission on administrative control and transparency was established, fully empowered and provided with all necessary resources to fulfil its mandate. In addition,

the third Conference of the States Parties to the United Nations Convention against Corruption was hosted in Doha, and a rule of law and anti-corruption centre has been opened in that city.

The State of Qatar continues to develop its laws and regulations, to join international conventions and to promote a culture of respect for national and international law, through seminars, workshops and other means.

The Acting President (*spoke in Spanish*): I now give the floor to His Excellency Mr. Richard Marles, Parliamentary Secretary for Pacific Island Affairs of Australia.

Mr. Marles (Australia): The rule of law is the highest and best guarantee of the freedom and dignity of all people. It protects people from the arbitrary use of power and gives victims access to justice. It provides the transparency necessary for business and the protection of property. It ensures that disputes can be resolved fairly and peacefully.

Sustainable peace especially needs trusted and credible institutions, processes and Governments. In turn, development and long-term peacebuilding require confidence in the rule of law. Only then can human liberty flourish.

Australia understands that today, just as we did in 1948 when our then Foreign Minister, Mr. H. V. Evatt, presided over the General Assembly as it adopted the Universal Declaration of Human Rights.

In Australia, our commitment to the rule of law underpins our social stability and our prosperity. We value those concepts so deeply that our whole national ethos is based upon a universal ideal of equality and opportunity, which in the Australian vernacular is known simply as “a fair go”.

Sadly, as an international community we too often see the terrible price paid by ordinary people when the rule of law breaks down. We see people made vulnerable to disadvantage and discrimination. We see communities that do not trust their police, courts or, indeed, their leaders. And we see development held back owing to conflict and insecurity.

Over many years, Australia has worked to strengthen the rule of law in conflict-affected societies. Since we joined the first peacekeepers in 1947, 65,000 Australians have served on more than 50 United Nations and multilateral peace and security operations.

Through successful work in Australia’s own region, we have sought to assist our neighbours in Papua New Guinea, Solomon Islands and Timor-Leste to build their own lasting and enforceable rule of law cultures. As chair-in-office of the Commonwealth of Nations, an organization comprised of fully one third of all of the world’s peoples, Australia recognizes the strong commitment of all of the nations of the Commonwealth to the rule of law as a core value.

The rule of law is inextricably linked to the three pillars of the United Nations — security, development and human rights, which are the high ideals that guide our efforts to achieve practical progress. Delivering training for courts, correctional services, police and other justice agencies; assisting with legal, judicial and constitutional reforms; and ensuring free and easy access of civilian populations to legal information to help secure their rights — none of that can be taken for granted. It requires sustained commitment and the sharing of hard-won lessons.

Australia is pleased to be able to do all of that through the United Nations and its Peacebuilding Commission, including as part of the Burundi, Sierra Leone and Liberia country-specific configurations.

Support for the rule of law is also a central part of Australia’s development assistance programme. We have dedicated more than \$300 million this year to helping strengthen the rule of law in developing countries, and by 2016 we will have trained 14,000 law and justice officials. Australia recognizes that the rule of law is itself a vital condition for extending freedom, expanding development, preventing conflict and building peace. When all those efforts fail — and, in the worst cases, when atrocities are committed — the rule of law ensures that impunity does not prevail.

Let us therefore ensure that the work of this High-level Meeting leads to practical progress towards the highest ideals of the United Nations for security, development and human rights for all the peoples of the world.

The Acting President (*spoke in Spanish*): I now give the floor to His Excellency Archbishop Dominique Mamberti, Secretary for Relations with States of the Observer State of the Holy See.

Archbishop Mamberti (Holy See): I would like to begin by expressing our appreciation for the references in the Secretary-General’s report (A/66/749) and in the Declaration adopted this morning (resolution 67/1)

to the unbreakable link between the rule of law and respect for human rights.

The Holy See wishes above all to underline the need to go beyond the simple fixation on procedures that guarantee a democratic basis for standards, to one that seeks to promote true justice. On its own, formal respect is not sufficient to guarantee the national and international rule of law, especially when, through the proliferation of norms and procedures, the certainty of law itself may be placed in jeopardy. Juridical disorder, on the one hand, and anthropological jurisdiction, on the other, compromise the ultimate and essential goal of all law: to promote and guarantee the dignity of the person.

In order not to be reduced to a sterile tautology, to a mere rule of the rules, as Pope Benedict XVI said in his speech to the Bundestag just a year ago, the rule of law must be based on a unified and comprehensive vision of man, appreciative of the richness of how people relate to one another and granting certainty and stability to juridical relationships. Moreover, the concept of law should be understood as justice — that which is just, that which is a just thing, an element that belongs to and is inalienable from the nature of every human being, family and State.

The achievements and declarations of human rights offer us important points of reference in that direction, but they are not in themselves sufficient unless they are read in the spirit in which they were formulated. Indeed, such declarations are the result of a lengthy juridical and political process, which began with the encounter between the theoretical and philosophical reasoning of Greek culture and the juridical and practical reasoning of the Romans, to which were added other elements, such as Judeo-Christian wisdom, the laws of other European peoples, canon law and its developments, the medieval and Renaissance work of Jewish, Arab and Christian philosophers, and, lastly, the contribution of the thinking of the Enlightenment and the political developments due to the revolutions of the eighteenth century. It is only in the light of this complex, rich and intricate edifice, which is simultaneously historical, juridical and philosophical, that the inviolable and inalienable rights of human beings can and must be appreciated as the essence of the law, and to which the rules must refer.

The United Nations Charter underlines the need to reaffirm faith in fundamental human rights. The world of faith usually indicates the transcendent, which

may, however, be grasped by philosophical reasoning, a process whereby we ask ourselves about the meaning of human existence and the universe, and about what offers a true and solid basis for the rule of law. Faith in the transcendental dignity of the human person does become the fundamental and indispensable key for understanding the rights codified in the founding documents of the United Nations. It offers a secure basis for the rule of law, because it corresponds to the truth about man as a creature of God's making, and it allows the rule of law to pursue its true purpose: the promotion of the common good.

These conclusions lead to the unavoidable premise that the right to life of every human being, from conception to natural death, should be considered and protected as an absolute and inalienable value. To that right should be added all the other components of human rights, without distinction, as envisioned by the principles of indivisibility and universality, thus making it possible to say that the integral promotion of all people, without any exception as to time or place, is a true guarantee of full respect for everyone. Among those rights, freedom of religion merits a particular mention, as the right to seek the truth in matters religious without coercion and in full freedom of conscience. The guarantee of such freedom, apart from its actual views, is an inalienable hinge of the rule of law for believer and non-believer alike.

This High-level Meeting on the Rule of Law is an important opportunity to reaffirm the will to find political solutions, applicable at the global level, with the aid of a juridical order solidly based on the dignity and nature of humanity. That is the best path to follow if we wish to realize the grand designs and purpose of the United Nations Charter and the Universal Declaration of Human Rights.

The Acting President (*spoke in Spanish*): I should now like to consult members with a view to giving the floor to the Chair of the United Nations Commission on International Trade Law, Mr. Hrvoje Sikirić. If there is no objection, may I take it that it is the wish of the General Assembly, and without setting a precedent, to invite the Chair of the United Nations Commission on International Trade Law to make a statement at this meeting?

It was so decided.

The Acting President (*spoke in Spanish*): In accordance with the decision just taken, I now give the

floor to the Chair of the United Nations Commission on International Trade Law.

Mr. Sikirić (United Nations Commission on International Trade Law): I thank the Assembly for giving the United Nations Commission on International Trade Law (UNCITRAL) the opportunity to address this meeting. At its forty-fifth annual session this summer, UNCITRAL instructed me to transmit to this audience the following message.

First, as the core United Nations entity in the field of commercial law, UNCITRAL views this event as providing a unique opportunity to promote the consideration of the rule of law from a perspective not commonly associated with it, that is, from a commercial and trade point of view. For UNCITRAL, its work on modernizing and harmonizing international commercial and trade law is key to the conduct of commercial activity on the basis of transparent and predictable rules that will assist economic development by encouraging trade and investment. In UNCITRAL's view, the rule of law is not only about issues of public international law, human rights, criminal law and transitional justice, which are clearly important. The rule of law is also about the capacity of States to mobilize resources to invest in such rule-of-law fundamentals as due process and judicial and legal infrastructure, including well-trained lawyers and judges. It is about the recognition and enforcement of property rights and contracts. It is also, of course, about guaranteeing the legal security required to promote entrepreneurship, investment and job creation. That is exactly what the work of UNCITRAL seeks to achieve.

Secondly, the Commission was unanimous that any outcome document from today's meeting should refer to the work of UNCITRAL and recognize its contribution to promoting the rule of law in the economic field as an essential element of the promotion of the rule of law in the broader context. Such a desired outcome is consistent with the General Assembly's recognition of the multifaceted impact of UNCITRAL's work on development, peace, stability and the well-being of all peoples — and, consequently, on the promotion of the rule of law in the broader context.

The premise is that the rule of law and economic development are mutually reinforcing. The promotion of the rule of law in commercial relations must become, as the General Assembly has acknowledged on numerous occasions, an integral part of the broader agenda of the United Nations to promote the rule of law at the

national and international levels. Advancing the rule of law must be an inclusive and comprehensive process that avoids focusing on only some areas of legal reform to the detriment of others that might be less visible or require specialized technical expertise.

Thirdly, recognizing that business practices are constantly evolving in a rapidly changing world, States must develop the capacity to modernize their commercial laws in response to those practices, and also establish legal environments that support and enable trade and commerce. Legislative reforms must be accompanied by appropriate institutional reforms to ensure the effective implementation and enforcement of laws.

Unfortunately, experience shows that, amid pressures to address other priorities, local needs for commercial law reform are often overlooked and resources are often allocated to other areas. Those local deficiencies are aggravated by unfilled capacity gaps in United Nations field operations. As reports of those operations suggest, the challenges posed by the need for economic revitalization, employment generation and private sector development are often not adequately met.

UNCITRAL can rely on 20 years of experience in implementing technical assistance and capacity-building programmes. Nevertheless, it cannot hope to address the constantly increasing challenges alone with the limited resources at its disposal. Achieving the effective deployment of UNCITRAL's modern trade law standards and technical expertise where they are most needed requires the long-term involvement not only of UNCITRAL but also of States and the United Nations system as a whole, together with external assistance providers.

UNCITRAL hopes that today's High-level Meeting will become the pivotal point in achieving increased recognition by the international community of the essential role that effective commercial law frameworks can play in advancing the rule of law. At stake is the capacity of States to continue engaging in commercial law reform, not only at the country level but also through participation in regional and international bodies, thereby strengthening rule of law in the economic field.

The United Nations has the huge potential, through UNCITRAL and other entities, to respond to the needs of States by building or enhancing capacity to promote the rule of law in a comprehensive manner.

The goal is to ensure that rule-of-law activities include the modernization of commercial law and developing capacities to engage States that most need it in that modernization. The question is whether the United Nations as a whole will design and conduct its future rule-of-law activities in a sufficiently comprehensive manner. We at UNCITRAL truly hope that it will. We remain at the service of the international community to assist in overcoming that challenge.

The Acting President (*spoke in Spanish*): I now give the floor to the Director-General of the International Development Law Organization.

Ms. Khan (International Development Law Organization): As the Director-General of the International Development Law Organization (IDLO), which is the only intergovernmental organization exclusively devoted to advancing the rule of law, I am deeply honoured to have the opportunity to address today's High-level Meeting. I am also grateful for the chance given to IDLO to contribute to the substantive preparations for the Meeting and its outcome (resolution 67/1).

IDLO believes that the Declaration of the High-level Meeting opens a path for further reflection and action by the international community on the centrality of the rule of law in addressing the many complex political, social, economic and environmental challenges of our times. The renewed commitment to the rule of law through the adoption of the Declaration and today's High-level Meeting is both significant and timely.

There is a global crisis of the rule of law, reflected in a dangerous deficit of public trust in institutions and a deep disconnect between the formal mechanisms of the rule of law and people's lived experience of justice and equity. Restoring people's confidence in justice systems is an enormous challenge confronting national Governments and the international community today.

Transforming institutions is a long-term endeavour, while the international community's attention span tends to be short-term. Many developing countries appreciate the need to build effective legal systems. However, change is hard because of resource constraints, lack of capacity and vested interests.

The level of aid is nowhere near the level of demand. If there is to be real progress towards the goals embodied in the Declaration, then international assistance for the rule of law must be significantly expanded. Institutions of law and justice must be made

to work for people. In supporting national ownership, IDLO would like to underline the importance of engaging not only authorities but also civil society, and of empowering local communities. The focus must be on the end users of justice.

IDLO's experience shows that the best results come about when legal and institutional reforms are tailored to meet local needs and, at the same time, are firmly anchored in international standards and values. The values and norms of the rule of law are universal and must be universally respected; but fairness, impartiality, transparency, integrity and accountability can be interpreted in different ways by different legal cultures. Acknowledging the plurality of legal systems, as indeed the Declaration does, is key to local ownership.

IDLO appreciates the Declaration's recognition of informal justice systems. They are often the only means by which many women and poor and marginalized communities can gain access to justice. Reform initiatives must therefore tackle the inequitable practices inherent in informal systems, but they must do so in ways that do not undermine local ownership.

IDLO welcomes the emphasis that the Declaration places on gender equality and women's access to justice. But legal reform alone will not produce justice for women. Policy initiatives and, even more important, political will, are needed to fight social discrimination and cultural prejudice and to promote the economic and political empowerment of women. For our part, we have pledged to enhance the role of women in the justice sector and to support women in overcoming the legal barriers they face in accessing justice and realizing their human rights.

Finally, as the post-2015 international agenda begins to take shape, IDLO believes that the international community has a unique opportunity to strengthen sustainable development strategies by supporting rule of law frameworks and rights-based approaches. The Declaration provides the opening for that.

The challenge to which we must all rise is to create a culture of justice. That entails three interrelated components: well-functioning and responsive legal institutions based on well-recognized principles of the rule of law; citizens who are empowered and aware of their rights; and a legal system that enables development outcomes to be fair and sustainable. For our part, we pledge to support efforts to improve the quality and integrity of legal and judicial institutions; to support

Governments that uphold human rights and empower people to claim them; and to facilitate legal solutions that promote sustainable development and economic opportunity.

We look forward to exploring innovative and diverse partnerships with the United Nations system and other stakeholders and to bringing our advocacy and our convening capacity to supporting the United Nations in following up the Declaration in order to build consensus on the intrinsic and instrumental value of the rule of law.

The Acting President (*spoke in Spanish*): I now give the floor to the representative of the International Crisis Group.

Ms. Arbour (International Crisis Group): “Between the rich and the poor, between the master and the servant, between the strong and the weak, it is freedom that oppresses and the law that sets free”. So said Henri-Dominique de Lacordaire, a French ecclesiastic, preacher, journalist and political activist who re-established the Dominican Order in post-revolutionary France in 1848. And he was right.

The purpose of the law in a free and democratic society is to liberate, not to restrain. It is to create a safe and just environment in which human conduct is regulated and power is constrained, so that maximum freedom and safety is attained by all.

In our eagerness to promote the rule of law, we often confuse three competing visions of it. One is institutional, one is procedural, and one is substantive.

The institutional rule of law is the most familiar; it is concerned mostly with law enforcement and it is reflected, for example, in the way the rule of law is currently housed in the Department of Peacekeeping Operations as the Office of Rule of Law and Security Institutions. It has under it a police division, a mine action service, a disarmament, demobilization and reintegration section and a criminal law and judicial advisory division. It is functionally interested in law and order and is heavily reliant on ideas of security and security institutions. In fact, we should call it law and order, rather than rule of law.

The second understanding of the rule of law is procedural. It reflects a formal understanding of the concept and emphasizes the preference for rules over human arbitrariness. The rules themselves are subject to formal requirements designed to further restrict

arbitrariness: laws must be public, they must have been properly enacted by a competent authority, they must not be retroactive, and it must be possible to comply with them. We could call that rule by law.

Under the rule by law concept, the content of the law does not really matter so long as the formal requirements are met. So as to prevent arbitrariness, it also requires that laws be properly enforced in a non-discriminatory manner, which includes, of course, the acclaimed principle that no one is above the law. Like the idea of law and order, rule by law has a certain attraction. It conveys a sense of fairness and protection from the capricious exercise of power, but it still falls short of what the modern understanding of the rule of law should offer.

The real rule of law is substantive, and it encompasses many human rights requirements. It reflects the idea of equality in a substantive way — not just that no one is above the law, but that everyone is equal before and under the law and is entitled to its equal protection and equal benefit. Only that understanding of the rule of law would prevent a law being enacted to regulate the use of torture, for example. Under the substantive understanding of the rule of law, that would be impossible, no matter how well promulgated the law was, nor how equitably it was enforced.

Properly understood in that fashion, the rule of law would also prohibit the enactment of a law that would deprive women of the right to vote or otherwise offend fundamental human rights guarantees. Under that substantive understanding of the rule of law, rules serve a higher purpose than the mere orderly regulation of human conduct. Laws must also enhance liberty, security and equality and strive to attain a perfect coincidence between law and justice. That is a tall agenda at the national and the international levels, but it is one that the rule of law commands. It requires that laws be just and justly enforced.

The enforcement of the rule by law and law and order models, rather than the real substantive rule of law, does not merely fall short of its objective. It runs the risk of subverting its purpose entirely.

The robust enforcement of laws that violate fundamental human rights can entrench authoritarians and, worse still, give them the additional veneer of respectability associated with respect for the rule of law. There can be no worse perversion of a legal and political

concept that holds so much for the advancement of individual freedom and of proper collective governance.

The Acting President (*spoke in Spanish*): I now give the floor to the representative of the International Institute of Higher Studies in Criminal Science.

Mr. Bassiouni (International Institute of Higher Studies in Criminal Science): It is our privilege to represent international civil society in expressing support for the efforts of the Secretary-General, the various agencies and bodies of the United Nations system, as well as the many governmental, intergovernmental and non-governmental organizations that have supported the rule of law both in its broadest sense, which encompasses the higher values of law and justice, and in its implementation at the legal and administrative levels. The rule of law in its broadest sense encompasses many of the functions that international, intergovernmental, governmental and non-governmental organizations engage in. The rule of law is also about providing support for an effective legal, administrative and social infrastructure, whose ultimate purpose is to ensure the protection of the higher values of life, liberty, human dignity, equality and justice. That approach to the rule of law is indispensable to sustaining democracy and freedom.

Historically, the rule of law has been interpreted as addressing laws and legal institutions, specifically law enforcement, prosecution, the judiciary, correctional services and administrative legal services. But it also encompasses the prevention of wrongs and providing remedies for victims, as reflected in the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law. In that respect, it also means ensuring accountability and putting an end to impunity.

The time has come to focus on the rule of law as a capacity-building mechanism within the United Nations in order to increase the effectiveness of the rule of law, rather than to expand its scope to include every value and goal of international and national societies. In order for that initiative to be successful, the United Nations must avoid the generalities and vagueness that seem to pervade the present trend in the rule of law. Instead, United Nations agencies and bodies need to embrace specificity in their rule of law programmes.

Notwithstanding the interests of United Nations agencies and bodies engaged in rule of law programmes,

it is important not to compromise or diffuse the broad operational designs of the new initiative by assigning different aspects to different agencies and bodies in order to accumulate bureaucratic interests. The diffusion of rule of law activities between different United Nations bodies and agencies is likely to present the challenge to the effective implementation and execution of those programmes. There is already some diffusion of the administration of rule-of-law programmes within the United Nations system, and that has produced a limitation on its effectiveness. Further diffusion of those important initiatives is going to be a further challenge.

It is therefore recommended that a special counsel or committee within the Office of the Secretary-General be established to coordinate the programmes of all United Nations agencies and bodies involved in the funding and administration of rule-of-law initiatives. The counsel or committee should represent all United Nations agencies and bodies working on rule-of-law issues, with a special focus on developing and applying best policies and practices across the United Nations system, as well as promoting cooperation and synergy, where appropriate, with intergovernmental and non-governmental organizations. In addition, the counsel or committee should establish systems, such as database systems of national and international experts as well as experienced professional and administrative personnel, to be used by United Nations agencies and bodies working on rule of law initiatives. The counsel or committee should also include representatives of intergovernmental and non-governmental organizations in order to make use of their experiences and resources, as well as to enhance cooperation and synergies, where appropriate, between themselves and those other agencies.

The ultimate purpose should not be to enhance international participation in the rule of law, but rather to support the development of national rule of law programmes as well as to enhance the efforts of donor States, intergovernmental and non-governmental organizations, especially by sharing best practices and promoting cooperation and synergies.

With regard to fact-finding missions and special procedures, the Office of the High Commissioner for Human Rights, in cooperation with the Human Rights Council, should undertake the necessary steps to identify best policy and practices and to apply them, as well as to ensure greater uniformity in the operations

of fact-finding missions and special procedures. That includes, but is not limited to, developing a common standardized database system, which would make the work of fact-finding missions and special procedures more uniform and more streamlined. Those steps should also develop greater synergies between bodies dealing with the same subject.

It is self-evident that the rule of law is foundational to democracy, human rights and justice. The term “rule of law” reflects values which in turn are embodied in the modalities that are needed to convert these values into actualization. Admittedly, the rule of law has reached a high level of recognition in international and national discourse, as was evident in the 77 statements heard today and made by many heads of State and Cabinet officers. But the question remains, with regard to civil society and the world’s masses, particularly those in the bottom 2 billion of the world who are struggling for their daily survival — if the torrent of support heard today

could only be translated into reality, the peoples of the world would not suffer the many injustices they still suffer from, which include not only hunger, disease and ignorance, but impunity for those who have committed, and who continue to commit, such crimes as genocide, crimes against humanity, war crimes, torture, rape, abuse of children in so many ways, human trafficking and many other forms of criminal conduct.

The rule of law has reached its highest rhetorical level. The time has come for us to translate that rhetorical commitment into reality and action at the international and national levels.

The Acting President (*spoke in Spanish*): We have heard the last speaker for the High-level Meeting.

I now declare closed the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels.

The meeting rose at 8.20 p.m.