



# Security Council

Fifty-ninth year

*Provisional*

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Wednesday, 6 October 2004, 10.30 a.m.

New York

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| <i>President:</i> | Mr. Rammell . . . . .              | (United Kingdom)   |
| <i>Members:</i>   | Algeria . . . . .                  | Mr. Benmehidi      |
|                   | Angola . . . . .                   | Mr. Gaspar Martins |
|                   | Benin . . . . .                    | Mr. Adechi         |
|                   | Brazil . . . . .                   | Mr. Sardenberg     |
|                   | Chile . . . . .                    | Mr. Maquieira      |
|                   | China . . . . .                    | Mr. Zhang Yishan   |
|                   | France . . . . .                   | Mr. De La Sablière |
|                   | Germany . . . . .                  | Mr. Pleuger        |
|                   | Pakistan . . . . .                 | Mr. Akram          |
|                   | Philippines . . . . .              | Mr. De Venecia     |
|                   | Romania . . . . .                  | Mr. Motoc          |
|                   | Russian Federation . . . . .       | Mr. Denisov        |
|                   | Spain . . . . .                    | Mr. Yáñez-Barnuevo |
|                   | United States of America . . . . . | Mr. Danforth       |

## Agenda

Justice and the rule of law: the United Nations role

Report of the Secretary-General on the rule of law and transitional justice in conflict and post-conflict societies (S/2004/616)

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*The meeting was called to order at 10.40 a.m.*

## **Adoption of the agenda**

*The agenda was adopted.*

## **Justice and the rule of law: the United Nations role**

### **Report of the Secretary-General on the rule of law and transitional justice in conflict and post-conflict societies (S/2004/616)**

**The President:** I should like to inform the Council that I have received letters from the representatives of Argentina, Australia, Austria, Belarus, Burundi, Canada, Costa Rica, Fiji, Finland, India, Indonesia, Japan, Jordan, Liechtenstein, Mexico, the Netherlands, Nigeria, Peru, the Republic of Korea, Saint Vincent and the Grenadines, Sierra Leone, Singapore, South Africa, Sweden, Switzerland and Uganda in which they request to be invited to participate in the discussion of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite those representatives to participate in the discussion without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

*At the invitation of the President, the representatives of the aforementioned countries took the seats reserved for them at the side of the Council Chamber.*

**The President:** In accordance with the understanding reached in the Council's prior consultations, I shall take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Mr. Juan Méndez, Special Adviser to the Secretary-General on the Prevention of Genocide and Director of the International Centre for Transitional Justice.

It is so decided.

I invite Mr. Méndez to take a seat at the Council table.

I should like to inform the Council that I have received a letter dated 1 October 2004 from the Permanent Observer of Palestine to the United Nations, which will be issued as document S/2004/793, and

which requests that the Security Council invite the Permanent Observer of Palestine to participate in the open debate on "Justice and the rule of law: the United Nations role".

I propose, with the consent of the Council, to invite the Permanent Observer of Palestine to participate in the meeting, in accordance with the rules of procedure and the previous practice in this regard.

There being no objection, it is so decided.

I invite the Permanent Observer of Palestine to take the seat reserved for him at the side of the Council Chamber.

The Security Council will now begin its consideration of the item on its agenda.

Members of the Council have before the report of the Secretary-General – whose presence here this morning I very warmly welcome – on the rule of law and transitional justice in conflict and post-conflict societies, document S/2004/616.

At this morning's meeting, we will first hear an introduction by the Secretary-General of his report. Thereafter we will hear a briefing by Mr. Juan Méndez, Special Adviser to the Secretary-General on the Prevention of Genocide and Director of the International Centre for Transitional Justice.

In the afternoon, we will hear a briefing by Mr. Mark Malloch Brown, Administrator of the United Nations Development Programme.

I should like very briefly to say, in welcoming this debate, that this is an initiative that we launched just over a year ago. I think that there has been significant interest in this issue and that there is a developing consensus. I hope that we are going to have a very constructive debate today, building on the work of the Secretary-General's report and taking these critically important issues forward. I am certainly very pleased to be here to witness these proceedings.

I welcome the presence of the Secretary-General and invite him to take the floor.

**The Secretary-General:** Mr. President, let me start by warmly welcoming you to New York and to the Security Council and expressing appreciation for your having convened this open debate. It could not be more timely.

A few weeks ago, in the General Assembly, I said that reintroducing the rule of law, and ensuring confidence in its impartial application, is an essential part of resuscitating societies shattered by conflict.

That principle lies at the heart of the report before the Council today — a report that reflects the coordinated efforts of more than a dozen United Nations departments and agencies, based on our own experience over decades of involvement in this field.

The report reviews the tools at our disposal to help administer transitional justice and rebuild the rule of law in conflict and post-conflict societies — from national justice systems to the support given by United Nations peace operations; from the International Criminal Court to ad hoc international and mixed tribunals and truth commissions; from public-sector vetting to reparations for victims.

As the report points out, the work of the United Nations in this field has taught us many lessons.

The first is that, to be successful, peace-building activities must reflect international norms and standards. But that does not mean that we should uncritically import or impose foreign models. One size does not fit all. Our support needs to be carefully tailored to the context and based on national assessments, national participation and national needs and aspirations.

Secondly, we must be provided with the resources needed for a sustainable investment in justice. These resources must help build local capacity, but simply providing technical assistance is not enough. We must also help foster and sustain political will at the national level. We should therefore support domestic reform constituencies and facilitate national consultations on justice reform and transitional justice.

Thirdly, we cannot forget the political context. Peace and stability can prevail only if the causes of conflict are addressed in a legitimate and fair manner — causes such as ethnic discrimination, gross disparities in the distribution of wealth and social services, abuse of power, and the denial of the right to property or citizenship. Indeed, justice, peace and democracy are mutually reinforcing. In fragile post-conflict settings, our efforts must advance on all three fronts. That requires strategic planning, careful integration and sensible sequencing.

Fourthly, our approach to justice must be comprehensive. We must address the police, courts, prisons, defence lawyers and prosecutors, and we must be sensitive to the needs of civil society, including those of victims, women, children and minorities.

Fifthly, where transitional justice is concerned, the best approach is usually not an “either/or” choice between prosecutions and truth commissions. Instead, a nationally determined combination of mechanisms will generally work better — including, where appropriate, traditional justice mechanisms.

In some cases, international or mixed tribunals have been set up to address past crimes. Those tribunals have helped bring a measure of justice to victims, held at least some perpetrators to account, and helped remove extremist elements from power. They have also enriched the jurisprudence of international criminal law. But they have been expensive, and they have not contributed adequately to building sustainable national capacities for the administration of justice.

The report notes that the establishment of the International Criminal Court offers new hope for a permanent reduction in the phenomenon of impunity — a hope that will grow stronger with each new ratification of the Rome Statute.

The recommendations of the report are grouped together in section XIX. I hope it will serve as a practical aide-memoire for the Security Council, to help it pay due attention to the rule of law and transitional justice as it addresses the conflict and post-conflict situations before it.

I have not forgotten my own responsibilities and those of the United Nations departments, agencies, funds and programmes. The United Nations system is working on important new tools to help strengthen our capacities to support the rule of law and transitional justice. Those include a justice sector mapping guide, support for the development of model transitional criminal codes and policy guidance for domestic and hybrid prosecutions. The United Nations system will continue to work in the coming months to implement the recommendations in the report that are directed at us.

We are ready to play our part and trust that the members of the Council are ready to play theirs.

**The President:** I thank the Secretary-General for his statement, which I believe starts this debate off very effectively.

I now give the floor to the Special Adviser to the Secretary-General on the Prevention of Genocide, and the Director of the International Center for Transitional Justice, Mr. Juan Méndez.

**Mr. Méndez:** I am honoured to represent the International Center for Transitional Justice (ICTJ) to address the important issues raised by the Secretary-General's report on the rule of law and transitional justice in conflict and post-conflict societies. Several of my colleagues participated last week in a workshop convened by the Office of the United Nations High Commissioner for Human Rights in Geneva to discuss the tools that the United Nations must develop to be better prepared to implement transitional justice approaches. We are pleased to see that new approaches are already moving from general policy to operational design. The further stage of the Security Council's participation in the debate highlights the transcendental nature of the doctrine adopted by the United Nations on this subject and embodied in the Secretary-General's report.

The ICTJ was founded on the premise that societies in transition from dictatorship to democracy or from conflict to peace can find solutions to common problems by analysing experiences in different countries at different times. Official denial of mass crimes and an effort to condemn their victims to oblivion is often a feature of those transitions. To overcome them, some States have established truth-telling mechanisms to uncover the truth about and preserve the memory of past abuses. Atrocities are often met by de jure or de facto impunity, but there can be no transition to a more humane, just, and democratic order unless impunity is broken through prosecution, trial, and eventual punishment. Little or no effort is made to recognize the inherent dignity of victims; the remedy for that is a policy of reparations that restores the respect that societies owe to their most vulnerable members. Additionally, there is often a risk of abuses being repeated, especially if perpetrators are allowed to remain in positions of power.

Transitional societies must therefore reform their institutions and exclude perpetrators of human rights crimes from newly reconstituted institutions. Finally, societies that are still torn by underlying conflicts of a

social, political, or ideological character, should consider conscious efforts to achieve reconciliation. Reconciliation should be viewed as the ultimate object and condition of the legitimacy of efforts to achieve transitional justice.

The problems that I have just described impose international law obligations on States undergoing transitions to remedy those violations. Although those obligations are universal, the policy mechanisms to put them in effect must allow for national customization and experimentation. Each society must find the set of tools and policy schemes suitable to the circumstances of its own transition. We, the international community, should avoid adopting initiatives that seem to work in other contexts, without a broad consultation with national stakeholders. We support the report's emphasis on national assessments and consultation processes designed to increase local legitimacy and ownership, thereby assuring a lasting legacy of tolerance and democratic values.

National ownership will reduce the risk that the work of the United Nations in this area will be perceived as a foreign imposition that runs roughshod over the richness and capabilities of local cultures. The inclusion of a commitment to transitional justice in peace agreements and United Nations mandates should not lead to premature decisions to apply untested models. The United Nations must invest from the start in outreach, public education and dissemination of the principles of transitional justice, as well as in the application of rule of law principles to the reform of State institutions. We recognize that the United Nations needs to increase its reservoir of expertise and capacities, and we hope that in so doing it draws on the wealth of knowledge that is present in civil society organizations, democratic Governments and academic institutions.

The Security Council can play a large role in enhancing the legitimacy of this evolving doctrine. In some cases it will be necessary to create international judicial instruments to provide redress to the victims of mass atrocities. When such tribunals are created under Chapter VII of the Charter, there is an explicit obligation on the part of all Member States to cooperate with their investigations, detentions and evidence-gathering. On the other hand, even when not acting under Chapter VII, the Security Council could explicitly mandate cooperation with mixed or hybrid courts and with the International Criminal Court,

which would help to clarify the scope of the obligations of third-party States to cooperate with those institutions. More significantly, however, it would signal that the international community is not so much interested in imposing its will on war-torn states, but that it recognizes that the restoration of justice and the rule of law is a common enterprise in which all States must play a part.

There is an increasing consensus among legal practitioners that truth and justice are not mutually exclusive alternatives. The temptation to establish a truth commission as a substitute for accountability should be resisted, however. The report's rejection of amnesty for international crimes such as genocide, war crimes and crimes against humanity is to be commended. We must also recognize that punishment without a full exploration of the facts and of historical and political responsibilities is equally inadvisable.

For those reasons, we should embrace a policy that assigns proper priorities to truth-seeking and truth-telling, as well as to bringing perpetrators to justice. The United Nations has played a major role in supporting the Truth and Reconciliation Commission in Sierra Leone, which submitted its final report to the President of Sierra Leone just yesterday. It has also been central to the operations of the Special Court for Sierra Leone. While the relationship between those institutions has not been without its difficulties, there is an increasing recognition that courts and commissions can complement each other's work.

There is also a long-standing debate as to whether the requirements of transitional justice objectively — as well as subjectively — complicate peace processes by creating disincentives for parties to a conflict to renounce violence. Those of us who approach the problem from a human rights perspective must humbly recognize that the prospect of being prosecuted for war crimes is not likely to persuade combatants to resolve the conflict by peaceful means.

For that reason, it is not so much that we object to peace agreements that are premised on impunity, but that we must insist that we can do better. A peace settlement that rejects impunity is a legal and moral imperative, but it must also address the grievances that gave rise to the conflict in the first place. That is why it is important to resist the blackmail of those who threaten to continue to fight and commit atrocities unless they are given immunity. Ceasefires and truces,

however, should be encouraged at all times, and we may have to forgo immediate justice as long as we preserve the ability to address past wrongs in the future. These thorny questions are context-specific and cannot be resolved in an abstract debate. Yet, we believe it is important for future peace-making to end the easy resort to blackmail embodied in the promise of loose amnesties and other rewards for atrocities.

We applaud the call in the Secretary-General's report for the universal application of principles of gender equality to all aspects of transitional justice and the rule of law. At the ICTJ we are embarking upon a review of mechanisms and approaches to transitional justice to determine the degree to which they have been gender-sensitive in design and operation, and how similar exercises can be improved from that perspective. We endorse the report's call for the collection of documentation on best practices. In that regard, we would like to draw attention to the Moroccan Equity and Reconciliation Commission. Not only is it a highly promising process, but it also serves as a fascinating example for non-governmental organizations and Governments throughout the Middle East, North Africa and elsewhere. For that reason, Governments' handbooks, databases and tools must exist in multiple languages. We also encourage the development of a standard set of benchmarks to evaluate different transitional justice initiatives. The number of successful prosecutions and convictions, for example, is a definite consideration; yet institutions should also be evaluated by examining whether they have built the local capacity to deal with justice effectively in the present and in the future.

Finally, we commend the report's recommendation that the United Nations review its own structures and resources in this field. The United Nations already has an extensive track record on these issues. It will need additional resources and better coordination to address the challenges this report so eloquently identifies.

**The President:** I thank Mr. Méndez for his statement.

In accordance with the understanding reached among Council members, I wish to request that all speakers from now on limit their statements to no more than five minutes in order to enable the Council to carry out its work expeditiously. Delegations with lengthy statements are kindly requested to circulate the

texts in writing and to deliver a condensed version when speaking in the Chamber.

I now extend a warm welcome to the Speaker of the House of Representatives of the Philippines, His Excellency The Honourable Jose De Venecia.

**Mr. De Venecia** (Philippines): I would like to thank the delegation of the United Kingdom for organizing this meeting on the important topic of justice and the rule of law. My thanks also go to the Secretary-General for his comprehensive report, issued in August, on "The rule of law and transitional justice in conflict and post-conflict societies" (S/2004/616).

Nations typically emerge from civil conflicts traumatized by their collective memory of genocidal crimes, horrendous abuses of human rights and mindless social violence. It is often the case that very few in those societies emerge untouched by the humanitarian disasters set off by the collapse of political order, the rule of law and the mechanisms of justice. It therefore becomes extremely difficult to reverse the collapse of the State and restore its legitimate authority.

Well-meaning outsiders often assign the highest priority to demobilizing irregular militias and organizing new security forces to rebuild the peace and punish the guilty. Historical experience suggests that raising the issue of past crimes prematurely may only induce warlords and gang bosses to resist, with force, being called to account for their past actions, thus breaking the fragile and tentative peace. Pushing retributive justice too quickly can be both damaging and destabilizing to the still-fragile post-conflict State.

Justice must certainly be a key element in any process of national reconciliation in conflict and post-conflict societies. We must emphasize this, even if we recognize that retributive justice is not always feasible at the beginning of the process, if only because the transitional institutions are too weak to exact retribution.

The Philippine delegation broadly supports the recommendations contained in paragraphs 64 and 65 of the Secretary-General's report. We are confident that those recommendations will be carried out with both wisdom and patience, and with the realization that there are no quick fixes or one-size-fits-all formulas for restoring the rule of law in post-conflict societies. The Philippines supports United Nations involvement

in rebuilding post-conflict societies because we know its sole objective is to build sustainable peace, a peace that will endure even after foreign peacemakers have left.

We must never forget, however, that the record of successful State reconstruction thus far is very insubstantial.

Let me thank a good number of United Nations delegations for considering the Philippine proposal in the General Assembly for an inter-faith dialogue in the United Nations system to promote civilizational reconciliation at the global level. Reconciliation always comes easier in an atmosphere of spirituality and faith.

I recall a statesman memorably saying that the twenty-first century will be defined by a simple choice that nations must make: whether to emphasize their ethnic, ideological and religious differences or their common humanity. Nations, however, can never make the right choice as long as their peoples insist "Our faith must reign supreme", since that claim can be affirmed only by the negation of all other faiths. I believe we must all learn to create space for alternative faiths if we are to find an alternative to so much violence and hatred and if we are to respond to the crisis of values that so pervades today's planet.

During the last two years, we in the Philippines have been strenuously promoting the need for global inter-religious understanding, supporting a dialogue among civilizations and cultures, specifically Christian-Muslim dialogue at the regional levels. Such dialogue should take place not only among political leaders but also among religious leaders and leaders of civil society to try to reduce the politico-religious and ethnic tensions and conflicts that have bedevilled regions and nations, societies and communities for hundreds of years and that have now exploded onto the scene in the first years of the twenty-first century.

I believe the religious sector has the moral influence to help the Security Council's efforts, particularly in conflicts with religious undertones. Because of its moral authority, the religious sector is well situated to deal with community-based issues, such as justice and the rule of law. Not only does it exemplify international society's respect for human dignity and individual worth, but often enough the religious sector is the only grouping in conflict and post-conflict societies that continues to function

coherently enough to serve as the foundation for rebuilding shattered communities. The religious sector could and should become an effective tool in achieving the international community's peace-building agenda. To date the international community has not fully tapped this sector's potential.

Last year, our delegation introduced a draft resolution in the General Assembly proposing the creation of an inter-religious council or a special committee in the United Nations to help address the problem of conflict resolution, reconciliation and the achievement of justice and the rule of law. Indeed, we think it would be a good idea for such a special committee for inter-religious or inter-faith understanding — mobilizing for the first time a crucial but neglected sector, the inter-religious sector — to engage religious leaders to work with political leaders and leaders of Government and civil society to contribute to peace and understanding and help resolve difficult ethnic and politico-religious conflicts such as those in Mindanao in my own country, in the Balkans, in the Middle East, in North Africa, in South Asia and South-East Asia and other areas of the world. We believe that the creation of an inter-religious council or a specific unit on inter-faith understanding in the United Nations system is an idea whose time has come.

**Mr. Denisov** (Russian Federation) (*spoke in Russian*): We too would like to thank the United Kingdom for the very useful proposal of holding this meeting today. The Secretary-General's report entitled "The rule of law and transitional justice in conflict and post-conflict societies" (S/2004/616) identifies a number of issues that require thorough consideration by the Security Council, Member States and organs of the United Nations, including the Secretariat. In particular, peacekeeping mandates must be improved. Many of them simply do not include tasks relating to transitional justice and ensuring the rule of law or do not always reflect the actual needs of the States in which missions are deployed. We share the Secretary-General's concern about this.

In that connection, I recall that a number of years ago in the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, the Russian Federation made a proposal to consider the question of the legal basis for United Nations peacekeeping operations, and we submitted a document in that regard. We think that

perhaps the Special Committee might now resume work on our proposal.

We fully agree with the Secretary-General that one cannot count on the success and stability of reforms aimed at ensuring the rule of law when such reforms are imposed from outside and are not based on local traditions and conditions. The United Nations and the international community as a whole should not replace, but rather supplement and promote, national initiatives, including those in the areas of justice and law and order.

As members are aware, in the initial stages of United Nations efforts to ensure the rule of law in post-conflict societies, there was an emphasis on establishing rather expensive international criminal tribunals. Experience has now enabled us to introduce a number of corrective measures. For example, now we have mixed tribunals in which, in addition to international judges, there are local jurists. That not only makes it possible to train national cadres in the law, it also assists in the establishment of national legal systems to introduce democratic standards of justice and to enhance the overall level of a society's understanding and awareness of the law. Undoubtedly, one important stage in establishing the rule of law in conflict and post-conflict societies was the establishment of the International Criminal Court, which has just begun to consider its first criminal cases.

Here, I should like to touch upon one other fundamentally important aspect. Certainly, ensuring the rule of law and justice must be regarded as a fundamental goal of United Nations work for peace. However, that cannot be a goal in, of and by itself. In an attempt to provide justice in a number of cases, excessive zeal becomes a hindrance to peace, complicating the attainment or implementation of peace agreements. In such cases, one should make more active use of alternative mechanisms — truth and reconciliation commissions, for example.

The Secretary-General is currently working with Member States to reach an agreement on the formulation of a list of experts to provide assistance to post-conflict countries. Such a list would include experts to assist in organizing transitional justice, re-establishing a justice system that has been destroyed and ensuring the rule of law. It is understood that such specialists would be made available to the United

Nations when necessary. We support that proposal, and we are prepared to work with the Secretariat to reach such an agreement.

In general, Russia agrees with the contents of the report of the Secretary-General (S/2004/616) on strengthening the role of the Organization in establishing justice systems and ensuring the rule of law in conflict and post-conflict societies. In that connection, I should like to make the following point: there is one view on the need to establish a new coordinating structure within the United Nations on issues relating to the rule of law and transitional justice. We do not reject that idea; we are prepared to study it. But at the same time, we feel that increasing the number of bureaucratic mechanisms does not always lead to enhanced functioning and effectiveness of the system. We therefore urge the Executive Committee on Peace and Security — which the Secretary-General has asked to submit recommendations on matters covered in the report — to focus on finding ways to improve coordination within existing mechanisms.

**Mr. Pleuger** (Germany): The Secretary-General's report on the rule of law and transitional justice in conflict and post-conflict societies (S/2004/616) is, in our view, a landmark document. It represents a significant step forward in conceptualizing the rule of law and transitional justice and in explaining their relevance to the work of the United Nations.

I would like to associate myself with the statement to be made later today by the representative of the Netherlands, on behalf of the European Union. At the same time, I would like to thank the Secretary-General and the many members of the Secretariat who were involved in drafting the report for an outstanding job.

Germany wholeheartedly welcomes this report and pledges to work with the United Nations to translate its vision into concrete action. We will do that as a Security Council member, as a member of the General Assembly and of other relevant bodies of the United Nations system, as a State party to the Rome Statute of the International Criminal Court and as a donor country that is now already devoting a significant part of its assistance programmes to the promotion of judicial and non-judicial governance structures.

But let us be clear on one important point: the Secretary-General's report, as thorough and thoughtful as it may be, is only the beginning of a long-term agenda. Important and often difficult questions remain unresolved. Here, I am referring to policy questions such as the proper sequencing and timing of measures to promote peace, justice and reconciliation; to institutional questions such as the cooperation between the United Nations — notably the Security Council — and the International Criminal Court (ICC); and to resource questions. With regard to the latter, action by the United Nations must be complemented by assistance that States make available to each other if a State is in need of certain capacities, materials or expertise. The Council will urge Member States that are able to do so to contribute national expertise and materials.

In that context, I would like to draw the attention of members to the Justice Rapid Response Initiative, an initiative that a number of countries from all parts of the world — including Germany — have launched over the past few months. The starting point of that initiative was the realization that in post-conflict situations, it is likely that a State may be willing, but not entirely able, to take the necessary steps to investigate and prosecute some of the worst crimes — war crimes, crimes against humanity and genocide — owing to a lack of expertise and resources. The response to that dilemma may be that States possessing the required expertise or resources coordinate to provide, on short notice, cost-effective expertise and resources as necessary. Such expertise and resources could be used either to enhance the capabilities of States not fully able but willing to prosecute such crimes or to augment the capacities of international justice institutions, notably the ICC. Under either scenario, such Justice Rapid Response capabilities would be deployed only upon request.

The Governments and civil society experts who have worked together over the past few months to elaborate the Justice Rapid Response Initiative are convinced that offering effective assistance to States possessing plenty of political will but limited resources would be an important element to give true meaning to the idea of local ownership. The Justice Rapid Response Initiative is still a work in progress. States that may be interested in participating in the further refinement of the initiative are welcome to join it.

Allow me to devote the conclusion of my statement to one specific issue and to make this part of my statement on behalf also of Finland and the Hashemite Kingdom of Jordan. That issue concerns the institutional structures necessary to implement the report's extensive to-do lists.

Indeed, while the report explains the challenges and the future agenda for United Nations action in the field of the rule of law and post-conflict transitional justice, it does not directly address the question of which institutional changes would be necessary to enable the United Nations to better cope with the strengthening of justice and the rule of law. The report merely entrusts the Executive Committee on Peace and Security to make proposals for enhancing the United Nations system arrangements for supporting the rule of law and transitional justice in conflict and post-conflict societies.

Currently, the work of the United Nations in the field of the rule of law and transitional justice is divided among eleven departments and agencies within the system. Cooperation between the various actors is maintained through a Focal-Point Network, with a largely coordinating role. No office dedicated to the issue has yet been established. The current arrangement does not support the development of common policies and comprehensive strategies, nor does it allow for the accumulation of institutional memory, best practices and lessons learned.

Finland, Jordan and Germany believe that there is a need to create a new entity within the United Nations Secretariat, to enable the United Nations to operate more effectively in this cross-cutting area. Therefore, Finland, Germany and Jordan have elaborated a non-paper outlining possible models for the future organization of the rule of law and transitional justice activities within the United Nations system. We hope it will provide a starting point for discussions in the Executive Committee on Peace and Security on this issue. We remitted our non-paper to the Secretariat in a high-level *démarche* on 29 September. On 1 October, we sent the non-paper to all permanent missions, for your information.

Common to the models contained in the non-paper is the assumption that effective mainstreaming of any theme requires some institutional centre of gravity within the United Nations system. Mainstreaming

cannot simply rely on occasional or periodic meetings or exchange of information.

The non-paper seeks to promote an entity responsible for all the policy work carried out by the United Nations in the area of the rule of law and transitional justice. From the beginning, it would have for its consideration and action numerous tasks highlighted in the report, such as reviewing best practices, developing proposals and overall policies for United Nations action; helping plan comprehensive national strategies; coordinating the efforts with actors from outside the United Nations system; updating and supplementing related United Nations material such as guidelines and manuals; directing the setting up of databases and web-based resources; creating and maintaining up-to-date rosters of experts; planning comprehensive training programmes for United Nations staff and other matters.

The non-paper also argues that core operations of the new entity should be funded from the regular budget, whereas operational activities would continue to be financed from the budgets of the implementing department and agencies.

We would like to emphasize that our non-paper does not intend to present ready-made solutions. Rather, it wishes to assist the Executive Committee on Peace and Security in its task to come forward with proposals of its own. We would be grateful if you, Mr. President, would see our distribution of the non-paper to permanent missions as an effort to draw your attention to a matter that in our view, needs urgent attention, and as an attempt to set out possible ways to approach the matter.

**Mr. Akram** (Pakistan): I would like to welcome you, Sir, to the Security Council to preside over this important meeting, which has been organized by the United Kingdom presidency. I also thank the Secretary-General for his clear statement today and for his report on the rule of law and transitional justice in conflict and post-conflict societies.

The need for justice and the rule of law is self-evident, particularly in conflict societies. Those principles are critical for the realization of social and economic justice and for the implementation of political, economic, cultural, religious and environmental rights. They are an essential means for the realizations of human aspirations for peace, equality and justice.

I have a few comments on the subject.

First, each conflict situation is unique and has its own dynamics. We agree with the Secretary-General that pre-packaged solutions are ill-advised and that we must eschew one-size-fits-all formulas. Secondly, we support the recommendation that needs related to justice and rule of law should be integrated into any international or United Nations involvement in post-conflict societies. Thirdly, we recognize the importance of building national capacities in independent national institutions. Fourthly, we support the promotion of good governance and national institution-building, particularly national judicial capacity-building.

Fifthly, we believe that use can be made of indigenous and informal traditions for the administration of justice and settlement of disputes, if they are consistent with international laws. Sixthly, we fully support the need for ending impunity for crimes against humanity. Seventh, justice, peace and democracy are mutually re-enforcing and should be simultaneously promoted. Eighth, reconstruction, economic revival and employment generation also create a wider stake in the preservation of the rule of law.

Ninth, the need for ending impunity for financial crimes is also important. The international community should strengthen and improve cooperative mechanisms to ensure that looted money or other assets acquired through corruption and other unlawful means are returned to the countries of origin.

Justice and the rule of law is vital for the establishment and maintenance of order, peace and stability, both at the intra-State and inter-State levels. The international community today could also be regarded as a conflict society. Thus, national rule of law strategies must be complemented by the international rule of law.

The Secretary-General made a powerful statement in opening the general debate of the General Assembly this year. I would like to quote three sentences from his statement at the Assembly's 3rd meeting

“The rule of law is at risk around the world ... Every nation that proclaims the rule of law at home must respect it abroad; and every nation that insists on it abroad, must enforce it at home. ...

Those who seek to bestow legitimacy must themselves embody it; and those who invoke international law must themselves submit to it.”

The United Nations must build its capacity to uphold the rule of law, both at the national and — even more importantly — the international level. The international judicial system should be strengthened to promote adherence to the principles of the United Nations Charter and international law. The international judicial bodies which have been established so far are, we believe, a good start. But we should seek to promote and further the international judicial systems, in the context of the measures being considered, to create a United Nations system responsive to the realities of the twenty-first century.

**Mr. Yáñez-Barnuevo** (Spain) (*spoke in Spanish*): First I would like to note the skill of the Council's presidency this month — the United Kingdom — on proposing for the theme of this debate, for the second consecutive year, the rule of law and transitional justice in conflict and post-conflict societies.

In the context of the report of the Secretary-General (S/2004/616), which we have examined closely, my delegation would like to highlight a number of points that we regard as particularly important. I would like first to congratulate the Secretary-General and to thank him, not just for his introductory statement this morning, but also for his important address at the start of the General Assembly session this year (see A/59/PV.3), which placed consideration of and action on law and human rights, both within and among countries, at the very centre of the debate on the direction the Organization should take.

Before I move on to the specific points that I would like to make in this regard, I would like to note that Spain fully endorses the statement to be made later by the representative of the Netherlands on behalf of the European Union.

Creating security and trust among populations in crisis and in post-conflict situations is indispensable if we are to consolidate or restore — depending on the situation — the rule of law and the justice system. Legal certainty provides a foundation for ensuring stability — with regard not only to the political system and the citizenry, but also to economic and social issues. The United Nations has broad experience, acquired in the field, in peacekeeping operations. It

also has a wealth of contributions from the deliberative bodies of the Organization, in particular the General Assembly, which as long ago as 1985 adopted the Basic Principles on the Independence of the Judiciary and, subsequently, the Basic Principles on the Role of Lawyers and the Guidelines on the Role of Prosecutors. Nor should we overlook the important contributions made by the Commission on Human Rights or the advice provided in this respect by the Office of the United Nations High Commissioner for Human Rights.

First and foremost, we must keep in mind that local actors and local institutions are key in this respect. We must minimize the risk of United Nations actions in this area sometimes being perceived as constituting external interference or as disregarding circumstances and traditions peculiar to the country in question. We therefore fully support the Secretary-General's statement that, in its actions, the United Nations must not try to direct, but to assist and provide guidance to, fragmented societies that require outside assistance for the restoration of conditions in which their own institutions can function properly.

Furthermore, it is essential to ensure that justice not be just an abstract idea, but a tangible reality for citizens, especially victims. In that regard, we believe that the initiatives put forward by the Presidents of the International Criminal Tribunal for Rwanda and of the International Tribunal for the Former Yugoslavia with a view to establishing mechanisms to provide reparations for victims should be studied carefully and in a positive manner. The Victims Trust Fund, set up by the States parties to the Statute of the International Criminal Court, is already beginning to operate.

We also look forward to the completion of the work begun by the Commission on Human Rights aimed at formulating basic principles and guidelines on the right to a remedy and reparation for victims of violations of international human rights and international humanitarian law.

The report of the Secretary-General also refers to the problems resulting from rule of law vacuums — when peace operations take place in environments marked by the effective absence of working criminal justice systems.

The Brahimi report on peace operations (S/2000/809) raised the possibility of developing a type of legal code that could provisionally be applied in

situations such as I have just described, with a view to filling such vacuums. We are gratified to note that, over the next few months, the preparation of instruments that could facilitate the work of the United Nations in this regard is expected to reach completion.

In the area of international justice, given the experience of special and mixed criminal tribunals, the International Criminal Court has a key role in combating impunity for the most serious crimes of far-reaching international importance. The international community now has at its disposal a permanent, independent and impartial instrument to ensure justice in the most significant cases of serious violations of human rights and international humanitarian law when, in keeping with the principle of complementarity, national penal systems are not in a position, for one reason or another, to address such important issues in a genuine and effective manner.

We welcome the fact that, in recent days, a number of countries have ratified the Rome Statute, and that consequently more than half of the States Members of the United Nations are now parties to the Statute. We also welcome the fact that the Secretary-General and the President of the International Criminal Court have signed an agreement on cooperation and consultation, with the result that the Court is now part of the United Nations system.

During the past few years we have sometimes seen positive results from the application of complementary measures, which can help to ensure justice in specific transitional situations. That is something to which Mr. Méndez also referred in his opening statement. I have in mind truth and reconciliation commissions, commissions aimed at establishing a historical record, national commissions on human rights, commissions to investigate the records of administrations, and so forth. Such mechanisms may be particularly appropriate in a political and social context by emphasizing the national character of the process of restoring justice and the rule of law.

It may sometimes be possible to set up specialized tribunals or courts. At other times, the proper functioning and strengthening of national capacities in the administration of justice might make such specialized tribunals or courts unnecessary. The particular formula will depend on the circumstances,

and the will of the peoples most directly affected will always be decisive.

The training of local personnel in the area of justice and the rule of law is a key element — one that must be worked on at all levels. To that end, appropriate resources must be mobilized. In this regard, in coordination with the European Commission, Spain recently held a workshop on criminal justice with the assistance of experts from various international organizations, including the United Nations and associations and organizations of civil society. That workshop was designed precisely to enhance existing capacities in this area — particularly in connection with crises in post-conflict situations. In this regard, we must not overlook the potential contributions of organizations like the Council of Europe, with its unparalleled experience in the protection of human rights, judicial cooperation in civil and criminal matters and the modernization of justice systems. Then, there is the Organization for Security and Cooperation in Europe, which has been doing effective work in preventive diplomacy and crisis management.

In conclusion, let me state that my delegation fully supports the conclusions and recommendations contained in the report of the Secretary-General, particularly in the last chapter, entitled “Moving forward”. I would also like to make the point that Spain is ready to cooperate actively in the implementation of those recommendations. Because of the far-reaching importance of the subject under discussion, it would be desirable for the Security Council to review periodically the progress made in implementing those recommendations, so as not to lose the momentum which the United Kingdom initiative has generated.

**Mr. Maquieira** (Chile) (*spoke in Spanish*): I would like first to express our gratitude to the United Kingdom for convening this public debate during its presidency. Our thanks also go to the Secretary-General for the report that has been introduced. We wish to express our appreciation to Mr. Juan Méndez, the Special Adviser to the Secretary-General, for his significant contribution. He is a distinguished Latin American who is well known to us for his unswerving devotion to human rights.

My delegation, Sir, sees this exercise as a part of process in which the Security Council discusses the

post-conflict role of the United Nations in key areas so as to ensure sustainable peace and decision-making, especially in terms of designing mandates and exit strategies. In this regard, the notion of the rule of law is a fairly recent paradigm in international relations. It is seen as a limit on the arbitrariness of the State and a principle for regulating relationships both internationally and within each society.

Reconciliation as such is seen as the collective response of a society emerging from crisis, whose social fabric has been damaged. It puts an end to the cycle of violence and lays the foundation for a new coexistence.

There can be no reconciliation without justice, and we will continue to repeat this whenever necessary.

Today’s meeting follows two other recent open debates held in the Security Council. The first — on justice and the rule of law: the role of the United Nations — was organized by the delegation of the United Kingdom in September of last year. The second — on post-conflict national reconciliation and the role of the United Nations — was held in January under my country’s presidency.

In response to specific mandates from the Security Council after those debates were held, the Secretary-General prepared the report on the rule of law and transitional justice in conflict and post-conflict societies (S/2004/616), the topic now before us. In my delegation’s view, this is a very comprehensive report of great conceptual value, which very clearly describes the experience of the United Nations in promoting the rule of law and human rights in conflict and post-conflict societies, in addition to giving specific recommendations.

My country shares the view of the Secretary-General on the key role to be assigned to the rule of law and the need to continue to take an integrated approach in which transitional justice is also addressed. My delegation would like to point out that my country does have some recent experience in the area of transitional justice. We also applaud the emphasis on the establishment of effective national judicial systems, the observance of international human rights norms, and the need to support the International Criminal Court.

As regards reconciliation, it seems to us that the report may have used too restrictive an approach. The

report regards reconciliation as an extrajudicial means of transitional justice. It seems to us that this viewpoint, based on an instrumental interpretation of reconciliation, does not reflect the fact that reconciliation is a process. However, it is also an end-result, which at times may take the form of specific mechanisms whose real-world application may lead to changes in interpersonal relations within a society.

Perhaps the report has failed to address reconciliation from the perspective of the political response that States, the United Nations and the Security Council must provide in the post-conflict reconstruction process, which goes beyond the merely legal ambit.

Apart from a few specific points, we believe that the report is positive and we endorse its recommendations. We believe that, in the current circumstances, we should focus on determining which practical recommendations we should adopt in order to give form to those ideas within the United Nations.

On this point, I would like to briefly refer to two of the recommendations. We welcome the report's emphasis on gender issues and promoting the full participation of women in the whole process. This dovetails with what the Security Council adopted in resolution 1325 (2000), to which I will return shortly. Then, there is the question of strengthening the capabilities of the special representatives of the Secretary-General and of peace operations, so that there can be information-gathering right from the outset of a conflict, which will then provide evidence of serious violations and offences. This would mean not waiting for the end of a conflict or the beginning of the post-conflict stage to carry out this process. On many occasions we have witnessed post-conflict situations in which issues of human rights and justice have arisen, but where much evidence, which initially appeared in the form of mere information, has been destroyed. Perhaps, with provision for the necessary legal safeguards, the Council should look at how those mechanisms — the special representative and peacekeeping operations — could be used to gather information, which could then serve as evidence. This has nothing to do with the subsequent decision as to whether or not persons identified as allegedly responsible should be tried.

We trust that the ideas emerging from this debate will help to give practical form to the role of the

United Nations in the area of the rule of law and transitional justice in post-conflict situations. This role should be one of facilitation and not a replacement for national institutions.

**Mr. Sardenberg** (Brazil): Mr. President, my delegation wishes to thank you for convening this open debate. We are also grateful to the Secretary-General for his thorough report on this increasingly important topic regarding justice and the rule of law, and for the concrete recommendations he has put forward. I should also like to thank the Chilean delegation for having organized an Arria-formula briefing together with representatives of non-governmental organizations who provided many valuable and insightful comments on the subject.

Last but not least, I should also like to thank Special Adviser Juan Méndez for his highly valuable participation in our meeting.

Brazil fully supports the Secretary-General's statement to the General Assembly on 21 September. It is indeed our major responsibility to instil, uphold and restore greater respect for the rule of law, not only at home but also throughout the world. In particular, all Member States have an unquestionable and overriding duty to abide by the United Nations Charter and, in the present case, by international human rights, humanitarian, refugee and criminal law. May I add that we took note with interest of the points raised by the Secretary-General in his report, and specifically when he comments that

“We must learn... to eschew one-size-fits-all formulas and the importation of foreign models, and, instead, base our support on national assessments, national participation and national needs and aspirations”. (S/2004/616, summary)

Much can be done by the United Nations in the domain of the rule of law. Mandates recently adopted by the Council include important rule of law and justice components in missions such as those in Côte d'Ivoire, Liberia and Haiti. In those multidimensional peacekeeping operations, the United Nations plays a major role in formulating and implementing long-term post-conflict initiatives, not only towards development and democracy but also in relation to the strengthening of the rule of law. All of those objectives are interdependent and mutually reinforcing, and contribute to build sustainable peace in war-torn societies.

Where an independent and impartial judiciary is functioning, justice tends to be pursued and done, rules are fairly applied and, as a result, people trust their legitimate institutions. In a post-conflict setting, the cycle of violence can be broken and the recurrence of conflicts can be effectively prevented.

Adherence to the rule of law entails the observance of the principles of equality before the law, separation of powers, democratic governance and social justice, among other fundamental precepts. The rule of law must be consistent with international human rights norms and standards. Respect for human rights is even more imperative in post-conflict scenarios, where the protection of persecuted minorities is urgently needed.

Helping shattered societies to re-establish the rule of law and address past abuses in order to achieve reconciliation involves a range of complexities. It is a critical task that in many settings requires the engagement of the international community.

On the subject of transitional justice in post-conflict societies, some key issues should be highlighted. We need carefully to consider the particular rule of law and justice needs in each country. Local consultation and ownership are very important elements, especially in that which concerns the victims themselves.

The dynamic is different in each experience and a distinct and calibrated combination of mechanisms will be required. For instance, it is necessary to make the relationship between courts and truth commissions conform to specific situations. Reparations programmes to victims of gross violations of human rights are also an essential element, as are vetting processes. At the same time that we take into account the rights and needs of victims, we must recognize and respect the rights of accused persons.

True reconciliation requires a delicate balance between the values of justice and peace. Together with democracy, those values are indeed mutually reinforcing imperatives, as mentioned in the report of the Secretary-General, and it is possible to promote all three in fragile post-conflict settings. To do so, the sensible timing and sequencing of the implementation of transitional justice processes need to be borne in mind.

Brazil has wholeheartedly supported the establishment of the International Criminal Court (ICC) as a permanent and independent tribunal to promote the rule of law and to ensure that the gravest and most heinous international crimes do not remain unpunished. Now that the ICC is starting its work and is becoming able to provide long-term and robust deterrence, the confidence we have placed in its effectiveness should be borne out. Ultimately, the full credibility of the Court is directly proportional to its universality. We therefore encourage all States that have not done so to accede to or ratify the Rome Statute at the earliest opportunity. Today, the ICC counts nearly 100 States parties.

We welcome the fact that the report rejects any endorsement of amnesty for genocide, war crimes or crimes against humanity, and ensures that the United Nations does not establish or directly participate in any tribunal for which capital punishment is included among possible sanctions.

We must give serious consideration to the Secretary-General's recommendations, such as setting up a roster of transitional justice experts and guaranteeing that they receive appropriate pre-deployment training. But we can achieve tangible results only with the necessary financial resources and highly qualified personnel for a solid investment in justice and in the rule of law, which requires a viable and sustainable funding mechanism.

Brazil has always favoured a comprehensive approach that underscores the developmental nature of the rule of law in order to enhance the provision of support to countries for national capacity-building, a primary strategy in strengthening the rule of law.

On my delegation's initiative, on behalf of the Common Market of the South, and with 141 sponsors in total, the General Assembly adopted in 2002 resolution 57/221 on the strengthening of the rule of law. On that occasion, we all recognized the role played by the Office of the High Commissioner for Human Rights (OHCHR) in supporting national efforts to strengthen the institutions of the rule of law. We all expressed our deep concerns about the scarcity of means at the disposal of OHCHR for the fulfilment of its tasks. The United Nations system, in particular OHCHR, should be given more resources to work with countries to strengthen national human rights institutions and to provide assistance, inter alia, in

programmes related to the training of police, prosecutors, judges, lawyers and prison officers.

**Mr. Motoc** (Romania): Romania fully associates itself with the statement to be made shortly by Ambassador Van den Berg of the Netherlands on behalf of the European Union. I shall therefore confine myself to brief remarks of a complementary nature.

I wish at the outset to thank the United Kingdom for carrying forward this extremely important and timely initiative. Our commendation goes also to Secretary-General Kofi Annan for making the rule of law a priority topic for the proceedings of the fifty-ninth session of the General Assembly, as well as for his comprehensive and inspiring report, which offers a good platform for further discussions within and outside the Council.

Romania has an especially immediate understanding of the importance of justice and the rule of law in building a democratic society, as it is a country that dealt quite successfully — judging by the annual report delivered this very day by the European Commission — with the challenge of an accelerated — political and economic transition. In all modesty, we stand ready to share with those interested the recipe, with all its strong points and its shortcomings and lessons learned. One important ingredient in that respect is how to handle the constantly evolving requirements of making the law actually rule the land.

Romania strongly supports the central role played by the United Nations, both as a promoter of the universal principles of justice and the rule of law and as an active participant in their concrete implementation. Embedding justice and rule of law components in the terms of reference for United Nations missions and assisting war-torn societies to put in place adequate reforms in that regard should become a permanent priority of the work of the United Nations.

Nevertheless, real progress in achieving effective, genuine justice and the rule of law depends largely upon local actors. Multilateral and bilateral assistance should be considered only as supporting elements in ensuring that justice and the rule of law are effectively widespread throughout the region or country concerned, thereby fostering solid prerequisites for sustainable local ownership. The fundamentals of justice and the rule of law have to be lived and practised locally.

Achieving national reconciliation has often proved to be one of the biggest challenges in efforts to ensure lasting peace in conflict-shattered societies. It therefore makes sense in such cases to capitalize on the virtues of the general concept of transitional justice, with due account being taken of cultural specifics and the traditions of the countries and societies concerned.

Atrocities and injustices brought about by civil wars and State repression can easily fuel new cycles of violence. Impunity may undermine trust in legal systems, thereby encouraging further crimes. While welcoming the important role played by ad hoc international criminal tribunals in helping countries and peoples to come to terms with past abuses, we believe that in many cases similar results could be achieved at lower costs if judicial mechanisms were established at the national level and strengthened with international support. As rightly pointed out in the report of the Secretary-General, easier interaction with local populations, closer proximity to evidence and witnesses and greater accessibility to, and for, victims, are indisputable advantages in that regard.

Of course, where States are unable or unwilling to prosecute and bring to justice those responsible for the most serious crimes, the complementary jurisdiction of the International Criminal Court (ICC), an institution that reflects universal aspirations to the rule of law and global justice, should be resorted to. I wish to take this opportunity to reiterate Romania's firm commitment to the goals and principles of the Rome Statute of the ICC, as well as to express our strong belief that the Court will live up to expectations and provide an effective means of bolstering the rule of law and dealing a decisive blow to the culture of impunity.

A wider range of non-judicial mechanisms such as truth commissions must of course supplement criminal justice and reparation programmes for victims. The latter aspect should be afforded greater consideration, as reparations programmes can contribute substantially to the promotion of national reconciliation. Quite often, the prejudice resulting from conflicts is not only confined to the level of those directly affected, but has more profound implications at the levels of community and society. We are indeed dealing with serious collective trauma when, for instance, conflicts inflict damage to, or destroy, cultural or religious patrimony, tearing apart the values that make up and hold together a given community. In

such cases individual compensation should be accompanied by broader restoration and reconstruction and programmes.

There is one additional concern that I would like to bring to the fore of this discussion at the United Nations regarding the importance of justice and the rule of law, in the hope that it will be possible to integrate it into the further pursuit of the theme proposed by the United Kingdom. We must not lose sight of a phenomenon that may sometimes be more worrisome than even the challenges of building or rebuilding a viable administration of justice in post-conflict situations. That phenomenon is the proliferation of areas in our world where there is a complete absence of law.

We have improved our capacity as an international community to address and manage even the most intricate and complicated conflict and post-conflict situations. But we do so in most cases when we have before us a conventional set of interlocutors to deal with. However, we do not seem to know what to do with regard to self-styled republics and territories where there is no recognized authority to be held accountable by world opinion. There are numerous such black holes today, and they exist, unfortunately, in most areas of our planet. The reluctance, uneasiness or inability of the international community to tackle such problems casts a shadow over the valuable work done to avert more conflicts and tensions than ever before. Eventually, that makes our work incomplete and is a glaring example of unfinished business.

In closing, I would like to express Romania's full support for the conclusions and recommendations set out in the report of the Secretary-General, as well as our full readiness to contribute to their implementation. We would also like to commend you, Mr. President, for the draft presidential statement on this subject. We look forward to building upon it further during the Council's future deliberations.

**Mr. Benmehidi** (Algeria) (*spoke in French*): I would like to thank you, Mr. President, for your initiative to organize this public meeting on the matter of the re-establishment of the rule of law and the administration of transitional justice in societies in the midst of conflict, which is at the very heart of the work of the United Nations. I would also like to thank the Secretary-General for providing us with a report on the role of the United Nations in establishing justice and

the rule of law in post-conflict societies and on national reconciliation.

Justice and the rule of law are very closely linked to the maintenance of international peace and security. The Security Council is therefore intimately involved in this matter, which is also associated with the prevention of conflict.

Experience has shown that United Nations peace operations — such as those in Timor-Leste, Haiti and Liberia, for example — can sometimes have direct responsibility for the administration of judicial services and police and penal systems, thereby helping to strengthen judicial institutions, train judges, ensure that courts function properly and provide advice to host-country institutions responsible for ensuring respect for the law. United Nations peacekeeping operations increasingly include a civilian component assigned to those matters. Given this historic development and the increasingly important role played by the United Nations in this area — often under difficult circumstances — the establishment of a legal framework for peacekeeping operations under Chapter VII seems to us to be necessary.

In addition, we share the Secretary-General's view that no institutional reform generally — and in particular that of an institution charged with guaranteeing the rule of law — that is carried out during a period of transition has any hope of lasting if it is imposed from the outside. The role of the United Nations and the international community is not to act as a substitute for local initiatives; rather, it is to provide them with the necessary support.

In that regard, organizing post-conflict elections must be strategically planned. Rushing into elections without proper political and security preparations can actually be detrimental to the rule of law by bringing back persons involved in the crisis to begin with or by encouraging sensibilities that do not actually reflect the real political situation in a given country, thereby further damaging the democratic process.

My delegation also believes that the ultimate goal of reconciliation is not always compatible with immediate justice, although we must always reaffirm our commitment to putting an end to impunity.

With regard to international criminal justice, keeping in mind that it is above all the responsibility of national judicial systems to determine responsibility

for crimes, we should emphasize the important role played by the international and mixed criminal tribunals that have come into existence in the last 10 years. The establishment of such institutions is a significant milestone. We note that, while the two ad hoc Tribunals for the former Yugoslavia and Rwanda were able to function thanks to their extremely high budgetary resources, the mixed Tribunals for Sierra Leone and Cambodia were financed exclusively by voluntary contributions, which in particular for the former has led to a financial crisis with a negative impact on its activities. We therefore have the problem of mobilizing sufficient resources.

In addition, the International Criminal Court must see its role strengthened, and the integrity of its Statutes should be preserved so as to advance the cause of justice and law and put an end to impunity.

My delegation, furthermore, supports the recommendations contained in the report of the Secretary-General on mandates approved by the Security Council and on measures to be taken within the United Nations system.

I would not wish to end without noting that re-establishing the rule of law means building the three pillars — peace, freedom and development — that are the goals of the United Nations.

Finally, my delegation feels there can be no re-establishment of the rule of law at the national level when there has been recently such dangerous drifting off course, undermining the most fundamental principles of law, including those relating to human rights and international humanitarian law.

The tragedy of the Palestinian people, with the complacent silence of the international community, is indicative of how precarious, if not absent, the rule of law is at the international level. It also shows a singularly selective approach to the notion of respect for human rights.

**Mr. Danforth** (United States): This subject, justice and the rule of law, is so quintessentially British that there is no wonder this month's presidency chose it as the subject for open debate.

In the United States, first-year law students study English common law, and American concepts of law, government and individual rights, not to mention our language, literature and basic values, derive from our British heritage. Some of these points might be

disputed on the other side of the Atlantic, but over here, Sir, your offspring are eternally grateful.

Today I want to highlight one aspect of the rule of law, the importance of transparency. Transparency is a true engine of the rule of law and can promote a responsive and trusted judicial system in both stable societies and those scarred by conflict. For the rule of law to grow in a society, the people must know the law. The law must be transparent to all citizens. This means the judicial system, courts, police and prisons must be open and visible. Making the law available means educating the citizenry. It means the judges must reach and publish reasoned decisions and cases. Star Chambers are incompatible with the rule of law.

The law may seem to require special expertise to understand, and if the law is not accessible to the ordinary citizen, if the ordinary citizen cannot know and trust the law, then the rule of law will be far out of reach. Knowledge and openness are the best bulwarks against arbitrary decision-making, whether by courts or by Governments. The United Nations, in particular, should marshal its resources effectively to help societies emerging from conflict to develop their national judicial capacities in a manner that is accountable to their citizenry.

However, the rule of law cannot simply be imposed by international bodies. To make the rule of law effective, citizens must also know their own Government. They must understand how it works and how to influence it. While legal and judicial matters necessarily involve certain confidences and restraints on sharing of information, absolute secrecy can encourage corruption. Transparency is an engine to a modern economy and a participant in the global economy. Access to information technologies plays an important role in open and free societies, both to stimulate economic activity and to provide citizens with information to know and monitor their Government, including their judicial systems.

Therefore, in addressing the problems of countries that have been engulfed in conflict and are seeking to build stable, peaceful and prosperous societies, we should assist them to develop a judicial system based on transparency and openness.

The Secretary-General's report on the rule of law has some valuable insights and recommendations. It rightly stresses the imperative of respect for the rule of law in any democratic, peaceful and prosperous

society. It underlines the importance of fair criminal justice. It catalogues useful actions the United Nations Secretariat can take to make itself effective in promoting the rule of law and helping countries build the institutions necessary to have the rule of law.

The United States has long supported efforts to hold responsible perpetrators of atrocities such as genocide, crimes against humanity and war crimes. We supported efforts to create the International Criminal Tribunal for the former Yugoslavia, the International Criminal Tribunal for Rwanda and the Special Court for Sierra Leone when countries were not capable or willing to exercise national jurisdiction. In Iraq, we are supporting Iraqi-led efforts to create the Iraq special tribunal. In the Sudan, we have repeatedly urged greater action to stop the atrocities.

We note, of course, that the report expresses some views we do not share. The report does not properly respect national decisions about criminal justice, particularly sentences a particular society may deem appropriate.

As this Council and the wider membership of the United Nations know full well, the United States has fundamental objections to the International Criminal Court (ICC) created by the Rome Statute. Our problems with the ICC concern the rule of law. We believe the Court should not have jurisdiction over citizens of States that are not parties to the Rome Statute. We believe that the Rome Statute does not reflect due process of law as we understand it, because, among other things, it allows multiple jeopardy and does not provide for jury trials, as our Constitution requires.

We believe the ICC runs a high risk of politicization and is not accountable. And we believe the ICC clashes with the international system of the United Nations Charter. It should come as no surprise, therefore, that we do not endorse the report's embrace of the ICC. We can accept the draft presidential statement today, because it respects our inability to support the ICC and does not explicitly or implicitly endorse the ICC.

I commend the United Kingdom for its historic leadership on this subject it has brought to the Council for its attention.

**Mr. Adechi** (Benin) (*spoke in French*): Mr. President, I thank you for organizing this public

debate on a very topical issue. Our Council dealt with this issue last year also. Today's meeting enables us to continue our reflections so as to constantly improve the work of the international community in providing assistance to post-conflict countries for the promotion of justice and the rule of law.

For these countries, it is not only a question of establishing functional national institutions; it is also a question of learning healthy practices so as to strengthen the very foundations of the State. Apart from these two aspects of the question, I would also like to comment on the relationship between the rule of law, justice and development and, in particular, on the potential impact of poverty and the wrong kind of development on the rule of law and vice versa. Establishing or restoring the rule of law is absolutely essential for post-conflict societies. In order to achieve that goal, measures must be taken to legitimize the exercise of institutionalized power and to ensure that it promotes the general interests of society as a whole. That presupposes a common social vision that reflects a national consensus, which, in turn, can result only from inclusive dialogue.

The establishment of democratic national institutions requires that qualified persons be found to lead them. Leader support for the democratic ideal and for its implementation is an important factor which the international community and the United Nations can help to consolidate by providing a suitable framework for the mobilization of international cooperation, in order to ensure that new institutions learn the good practices that they need to survive. The United Nations can thereby contribute to the emergence of a true, revitalized culture of democracy, which is the best way of ensuring the rule of law on a lasting basis.

The rule of law does not depend only on a State's leaders. It requires also the participation of all sectors of society. The administration of justice in post-conflict societies is crucial to restoration of the rule of law, because it means that rights can be claimed, compensation for damages can be paid, and human rights violations that occur in conflict periods can be punished. It therefore plays a key role in national integration.

Post-conflict societies can meet the crucial need to re-establish stability and to prevent another outbreak of fighting by creating conditions whereby their citizens can make their interests known and pursue

them peacefully and legally, a right guaranteed by a democratic State.

In that respect, the administration of justice through national structures is far preferable and less expensive. Resort to alternative judicial measures that are based on moral values is sometimes fully justified. However, we have to recognize that shortages in the area of human resources and of infrastructure — a situation that often faces post-conflict countries — means that it is not possible to ensure an adequate and credible justice system.

In every case, priority must be given, in the framework of international cooperation, to rebuilding national capacities in the area of the administration of justice and to considering alternative judicial methods that take account of the cultural environment of the country concerned.

Using international forums — for example, for very serious crimes that violate international law — is also fully justified. In that respect, we would stress the need for ad hoc tribunals to continue to help strengthen, where necessary, national capacity in the area of the administration of justice. I would also stress the need for such structures to have sufficient and predictable resources, so that the message being sent by the international community can be a truly consistent one.

Benin welcomes the entry into force of the Rome Statute establishing the International Criminal Court, which is an essential instrument in combating impunity.

In addition to the issues taken up in the report of the Secretary-General, special attention should be given to the dialectical correlation between the rule of law and economic and social development. While the rule of law and a functioning justice system are essential to ensuring the sustainable development of post-conflict countries, the rule of law, however, can seem to be an unattainable luxury for countries that are so poor that most of their people are just managing to survive one day at a time.

That is the reason for excessive deforestation and the other negative trends that can be seen in very poor countries. It is clearly impossible for justice and the rule of law to prevail in areas of extreme poverty, which has very serious consequences for the affected

countries. That represents a real threat to international peace and security.

Let us consider the extent of the devastation in Haiti after the recent hurricanes and the implications for the item under consideration today. Those tragic events, and the reactions to them, make clear the importance of promoting economic and social rights as an integral part of the rule of law, not only in post-conflict countries but also in countries whose economy is clearly vulnerable.

**Mr. De La Sablière** (France) (*spoke in French*): The Secretary-General has promised to make the strengthening of the rule of law and justice in post-conflict societies a priority for this Organization. France fully supports that resolve and thanks the United Kingdom for having placed this key issue on the agenda of the Security Council.

Heeding the recommendation you made, Mr. President — with which I fully concur — that we limit the length of our statements, I shall confine myself to underscoring orally the main points of the statement that I have prepared. I will circulate it in written form to delegations so that they may consult it if they so wish.

The excellent report of the Secretary-General gives a useful account of the experience acquired and makes specific proposals for future progress. France supports the recommendations of the Secretary-General, in particular those addressed to the Council.

In our view, the Security Council has a special responsibility in the area of the restoration of justice and the rule of law in countries at war or which are striving to emerge from conflict with the assistance of the international community.

It seems to us that it is incumbent on the Council to take into account, right from the outset of peace processes or operations, the dimension of justice and the rule of law. We believe that it should also draw on the experience acquired by the international community as a whole in that regard; that it should fulfil its responsibilities, in particular in the area of combating impunity; and, finally, that it should bolster its preventive action.

I shall take up briefly each of these points.

First, we should build dimension of the rule of law into an overall approach to the restoration of

peace. That, indeed, is what the Security Council does — perhaps not yet as well as we would wish it to do, but it has begun to follow that course. I believe that the action undertaken in Haiti in that regard is a good example in that respect, because, right from the start — with the first Council resolution — respect for human rights, the combat against impunity and the need to restore the rule of law were affirmed as goals and fully integrated into measures to restore security.

However, we should have no illusions. The Organization's actions must be well thought out; they cannot be undertaken in haste. For example, as regards the elections, we believe that everything possible should be done to ensure that they take place in a climate of sufficient security and freedom. Indeed, their credibility is at stake.

Secondly, we need to benefit from the vast experience that has been acquired on the regional and national levels. In that regard, it should be noted that regional organizations have increasingly accumulated genuine expertise. In Europe, for example, the Organization for Security and Cooperation in Europe, the Council of Europe and, of course, the European Union — whose presidency will speak shortly — are often partners of the United Nations in restoring sustainable peace, as in Bosnia and Herzegovina or in Kosovo. We are in favour of the partnership between the United Nations and regional organizations being further strengthened in this area.

It also seems to us that the contribution that non-governmental organizations can make also needs to be taken into greater consideration and incorporated more systematically. There are many actors here — the United Nations and regional and non-governmental organizations — and the wide range of actors involved in promoting the rule of law and peace-building means that we must be careful to ensure the proper coordination of their efforts to avoid duplication and lack of clarity. We are in favour of further reflection as to ways to better dovetail United Nations activities with those of other international interveners: international financial institutions, regional and subregional organizations, as well as non-governmental organizations and the private sector.

Thirdly, my country feels that it is incumbent on the Security Council to fully carry out its responsibilities. We know that a society fractured by conflict is often incapable — unassisted — of ensuring

the dispassionate exercise of justice. However, justice is vital for reconciliation. We must, therefore, assist in meeting that need.

It seems to us that as a start, the Organization should be ready to lend its support in building national legal authorities, provided, of course, that they are in conformity with international standards. In that regard, France concurs with the Secretary-General when he states that the United Nations could not participate in any judicial system that might demand the death penalty.

The so-called mixed tribunals, bringing together national and international judges, are a very useful approach in helping a society to put to rest a troubled past and in rendering proper reparation to the victims. The Human Rights Chamber of Bosnia and Herzegovina, established by the Dayton-Paris Peace Accords, for example, made a key contribution in the restoration of victims' rights and, in particular, their property. That example of a non-criminal court is worth examining because of the fact that displacements of populations during a conflict always give rise to intractable disputes.

France welcomes the ratification by the National Assembly of Cambodia of the agreement signed on 6 June 2003 between the Secretary-General of the United Nations and the Kingdom of Cambodia, with a view to bringing the historical Khmer Rouge leaders of Democratic Kampuchea to trial. We invite States, as Cambodia will do, to lend their support to establishing those special tribunals.

In certain situations when local resolve is insufficient, only a fully international tribunal can serve justice. In the past, the Council shouldered its responsibilities by creating the International Criminal Tribunals for the Former Yugoslavia and for Rwanda. Now it should refer to the International Criminal Court the most serious crimes, if they remain unpunished. That Court is the instrument par excellence of the primacy of law and justice. More than half of the United Nations Member States are parties to its Statute. It should become universal. That is our hope and that idea is inherent in its conception. We hope that the Court will also be a model in terms of access for victims and reparation, owing, among other things, to the United Nations Trust Fund for Victims of Gross and Flagrant Violations of Human Rights chaired by

Ms. Simone Veil. Cooperation between the Court and the United Nations should be exemplary.

Fourthly, we believe that we need to bolster preventive action and, in that regard, we would like to express our satisfaction at the appointment of the Special Adviser to the Secretary-General for the Prevention of Genocide. It is one of the Special Adviser's tasks to draw our attention to any situation that threatens to degenerate into massive atrocities. It is also incumbent on the United Nations High Commissioner for Human Rights to draw our attention to any gravely disquieting situation.

On the subject of prevention, I would like to say a few brief words on the question of Darfur. An international commission of inquiry on human rights violations is preparing to go to the region. We eagerly await its report and its recommendations on how to best combat the culture of impunity there. We greatly hope that the commission of inquiry can be established as soon as possible.

Here are the focuses that, in our view, the Council should concentrate on in order to contribute to the restoration of justice and the rule of law in post-conflict situations. The Secretariat should assist us in that task by implementing the recommendations made in the report of the Secretary-General without delay. I would add that the contribution of Germany, Finland and Jordan to the debate on the internal organization of the Secretariat is one we feel will be very useful.

It remains for us, the Member States, to fulfil our part of the mission, in particular by providing the United Nations with experts that can be rapidly mobilized, which the United Nations needs to be able to carry out its activities in the restoration of the rule of law and justice.

**Mr. Zhang Yishan** (China) (*spoke in Chinese*): First of all, Mr. President, I would like to say that we are glad to see you chairing today's meeting. I would also like to thank the Secretary-General for his statement and for his first report on this issue.

Many countries emerging from conflict today are faced with the heavy task of reconstruction, restoration of the rule of law and justice and the stabilization of public order. All of those issues are important in order to give people new hope for peace. There is a universally recognized need for international mechanisms that will be democratic, harmonious and

consistent with the Charter of the United Nations and international law. That is our common aspiration and the general course that needs to be followed. In that regard, today's meeting is definitely opportune and timely and will help us to better focus on our objectives.

Now I would like to concentrate on the following observations.

First, the restoration of the rule of law and justice is both a prerequisite for the restoration of peace in conflict-ridden societies and also a basic safeguard for ensuring long-term peace. Without the rule of law there can be no genuine peace. Only political stability, the progress of the population as a whole, sustained economic growth and peaceful development will make it possible to ensure genuine peace and stability. Therefore, the rule of law and justice must not be built on fragile foundations. Experience has shown that promoting the rule of law and justice is not merely a legal matter, it is also closely bound up with political, economic and social issues.

Secondly, the origins of conflicts are not always the same, but they are often associated with poverty and backwardness in terms of development. The end of a conflict does not mean the advent of peace. Conflicts jeopardize the possibilities for capacity-building in these regions, which often face difficulties in terms of resources, technology and qualified personnel. The international community and, in particular, donors need to assist these regions and actively support them. At the same time, in granting assistance, we must ensure that there is full respect for local customs, cultural traditions and the local legal system. We need to respect the right of the local population to choose and to decide. The participation of external parties should be limited to guidance, rather than direction. Strengthening local capacities — and not imposing pre-designed solutions — should be stressed.

Thirdly, coordination must be enhanced within the United Nations system, in order to draw on each other's expertise, to provide the right level of judicial assistance and to enhance the capacities of judicial elements in peace operations. The Secretary-General has presented a number of recommendations in paragraph 65 of his report, in particular regarding the roster of experts. These are measures that should be put into effect as soon as possible.

Fourthly, restoring the rule of law is something that should serve the purpose of securing lasting peace and security and providing for economic and social development. It should also serve the fundamental long-term interests of the local population. In this process, all parties must respect the United Nations Charter and the universally recognized norms of international law with regard to the sovereignty and territorial integrity of the country in question, and refrain from interfering in internal disputes and differences.

By way of conclusion, I would like to quote the Secretary-General in his address to the General Assembly: “Those who seek to bestow legitimacy must themselves embody it; and those who invoke international law must themselves submit to it” (A/59/PV.3).

**Mr. Gaspar Martins** (Angola): Your presence here, as you preside over this session, Sir, proves the importance and relevance of the theme under consideration today by the Security Council. In fact, the issue of justice and the rule of law is at the core of the United Nations activities and focuses the objectives of the international community on building a world that is more just, equitable and peaceful.

We thank the Secretary-General for his important statement and welcome the participation this morning of his Special Adviser on the Prevention of Genocide.

The Secretary-General’s report before us (S/2004/616) underlines the essential role played by justice and the rule of law in the maintenance of peace and in promoting development and long-term national reconciliation. We fully share the principled views expressed in the report that justice, peace and democracy are mutually reinforcing imperatives and that the international community should base its approach on the assessment of specific national needs and on national ownership of these processes.

The last decade witnessed a number of important landmarks with regard to transitional justice and the rule of law, particularly concerning its codification. The African countries, through their engagement in peacekeeping efforts and particularly through the entry into force of the Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court on Human and People’s Rights, took a huge step forward in the fight against impunity on the continent, in applying international humanitarian law

and in the promotion and respect of human rights. It is our hope that such efforts — along with additional components of the national healing processes such as truth and reconciliation commissions — will succeed in helping post-conflict societies to foster accountability, render justice to victims, discourage further crimes and contribute to the restoration of peace by promoting long-term reconciliation.

Despite the significant progress so far achieved, much remains to be done. It is our conviction that only the establishment of sustainable democratic societies will ensure the primacy of justice and the rule of law on the African continent.

As a country that recently emerged from a long period of conflict and war, we are deeply committed to justice and to the establishment of the rule of law as indispensable prerequisites for a sustained process of peace and national reconciliation. Our experience has confirmed that a piecemeal approach to the issues of the rule of law and transitional justice does not bring about satisfactory results. Strategies for the implementation of an effective rule of law must stem from the grassroots level. They must encompass popular participation and must be comprehensive in engaging all of the relevant social, cultural, economic and judicial institutions.

Our experience has also confirmed that the financing of reconstruction and peace-building processes, including the creation of national capacities, new security and judicial structures, as well as renovated law enforcement capacities, constitutes a critical threshold in long-term national reconciliation and development processes.

In order to address the issues of justice and the rule of law in a comprehensive and coordinated manner, a long-term commitment by the international community is essential, since it is a shared responsibility to ensure justice for crimes under international law, which are, after all, crimes against the international community as a whole. While aware that the proposition is not to build international substitutes for national judicial capacities, we see international cooperation as a fundamental prerequisite for the effectiveness of justice and the rule of law and for the consolidation of peace and long-term national reconciliation.

To conclude, we again welcome the Secretary-General’s report. We endorse his recommendations

defining the way forward, contained in paragraphs 64 and 65. We stress the importance of the creation of a roster of justice and transitional justice experts, and we fully support the call by the Secretary-General regarding the need to ensure a viable and sustainable funding mechanism to provide adequate resources for restoring the rule of law and establishing transitional justice, supplemented by appropriate multilateral and bilateral funding approaches.

**The President:** I will now make a statement in my capacity as representative of the United Kingdom.

The United Kingdom associates itself with the statement to be made later by the Netherlands on behalf of the European Union.

I wish to echo the welcome given by other speakers to the report of the Secretary-General (S/2004/616). I certainly hope that we can use its recommendations to give momentum to our efforts to improve the international contribution to building justice and the rule of law. I believe the report reflects a concerted effort within the Secretariat to bring together a broad spectrum of expertise to produce, for the first time, a single, coherent strategy on justice and the rule of law. That analysis, I think, is excellent. But, more important, the recommendations are practical and achievable.

We, as Security Council members, should be actively looking for appropriate opportunities to take forward the recommendations which apply to the Council. In particular, I believe we need to give due attention to the restoration of and respect for the rule of law in the support we give to peace agreements and in the mandate for peace support operations. There is already much work being done in that area, and we welcome the initiatives already under way, some of which have been described today by other speakers, for example the ideas from Germany, Canada and Sweden on spreading the norms and standards of international law. But we hope that the Secretariat can focus on bringing these together into a complementary and cohesive effort.

The Secretary-General's report (S/2004/616) rightly focuses on the establishment of transitional justice — that is to say, a framework for a society that needs to reconcile crimes from the recent past as well as to build an enduring framework for the future. That, I think, is one of the most important challenges we face.

Transitional justice is a necessary part of re-establishing normal social frameworks. The international tribunals have been an important learning curve in that context. We certainly hope that future initiatives will provide more effective, and less costly, means of accountability for crimes. And, of course, we share the Secretary-General's view that the International Criminal Court offers new hope for a permanent reduction in the phenomenon of impunity.

In contrast, the rule of law is part of looking forward and building a stable peace. That is an essential part of reconstructing post-conflict societies. But we should also recognize the value of upholding and strengthening law and order in preventing conflict and in wider peace support operations. That is a question not only for the Security Council, but for other parts of the United Nations system, regional organizations, individual donors and, of course, non-governmental organizations and civil society.

I would like to highlight two broad ways in which the United Nations can take forward the work on the rule of law.

The first way is to promote international standards. The United Nations is, critically, in a position to take an overview of what has worked and what has not worked in efforts to build the rule of law in various systems around the world. It can develop common standards in its own work and, indeed, spread best practice.

A specific rule-of-law element may not always be necessary in every United Nations peace support operation. But it would certainly encourage good practice to have in place a checklist of the main factors necessary to build effective judicial and legal frameworks to be taken into account in each case. The factors to be considered in United Nations missions could include, for example, providing advice on international norms and laws, building frameworks and regulations for legal institutions, opening accessible and fair channels of appeal and providing appropriate training and, critically, the important technical expertise.

The United Nations itself needs to uphold those standards too, not just in the programmes and missions it runs, but also in the management of operations and the actions of its staff. The responsibility to promote a fair, free and just society lies with everyone engaged in the process.

While the United Nations can take a lead in promoting international standards, the emphasis must be on building local frameworks, tools and mechanisms to support justice, law and order. An internationally imposed solution is not a durable one. Capacity needs to be built up through the communities and States that we aim to support. And that — capacity-building — is the second area on which I believe the United Nations needs to focus. Importantly, we need to strengthen civil society's capacity to uphold the rule of law and to protect individual and group access to a fair judicial system. The relevant United Nations bodies should consider how best to support civil society in that area through consensus-building, outreach and legal assistance.

I want to highlight in particular the role of women in that respect and to stress the importance of ensuring that action to restore human rights and the rule of law in post-conflict situations is undertaken in a gender-sensitive way. As the Secretary-General's report rightly notes, in a post-conflict situation, one of the major human rights abuses that the international community will have to face up to is likely to be gender- and sexual-based violence. That is an issue that the Council will also consider in the open debate we will hold on 28 October.

In that context, the United Kingdom was pleased to participate recently in a conference on gender justice held by the United Nations Development Fund for Women in conjunction with the International Legal Assistance Consortium. The conference produced a range of interesting recommendations for improved international action, which I hope all Member States will consider carefully.

Capacity-building needs to be worked into United Nations programmes at all stages. At the higher level, that requires, first and foremost, the political will to contribute resources and expertise. It also entails structures within the Secretariat and elsewhere which are capable both of carrying out planning and coordination within the United Nations and of building on the efforts of national donors, regional actors and non-governmental organizations.

In the field, we need to make sure that there is coherent and effective integration of justice and rule-of-law elements within United Nations missions. We

also need to develop our understanding of when and how these can have the most impact. That means developing adequate technical expertise and monitoring mechanisms that can be implemented and compared across various missions.

In his report, the Secretary-General made several useful and practical recommendations which we would encourage the Secretariat to take forward rapidly. In particular, we would like to see implementation of the very practical "toolbox" ideas. These include the following.

The first idea is to convene technical-level workshops on the rule of law and on transitional justice experiences from around the world. We would suggest expanding that idea to ensure that we look at how supporting legal systems can also play a role in conflict prevention.

The second idea is to establish arrangements for creating and maintaining an up-to-date roster of experts. We might consider whether, in time, such a database could be developed into an interactive electronic forum where experts and stakeholders could discuss particular concepts or problems.

And the third, very important, idea is to organize staff training programmes on the rule of law and on transitional justice. We would envisage such training taking a very broad approach, encompassing, for example, judges and magistrates, judicial administration, civil police forces, legal aid workers and so on.

Many of today's speakers have highlighted other practical suggestions for taking this work forward. I believe that, together, we now need to work up policies which will provide real structures for societies that currently exist in a fragile framework of law and order or even exist in the absence of anything that could meaningfully be called justice. It is clearly important that we return to this subject to ensure that we are implementing the proposals on which we have, I believe, genuinely found broad consensus.

I would therefore propose that the Council might return to this subject in approximately six months' time to assess progress and, if necessary, to give renewed

impetus to this agenda. But, for now, I would strongly urge members of the Security Council and all those who are participating in today's debate to consider how they can contribute to taking forward these recommendations. I believe that we have a developing consensus and that we need to take this agenda forward.

I now resume my functions as President of the Security Council.

My game plan was to have all members of the Security Council make their statements by one o'clock, and I must say we have accomplished that goal with one minute to spare. Therefore, I intend, with the concurrence of members, to suspend the meeting until 3 p.m.

*The meeting was suspended at 1 p.m.*