

## 35. The promotion and strengthening of the rule of law in the maintenance of international peace and security

### Overview

During the period under review, the Security Council held three meetings in connection with the promotion and strengthening of the rule of law in the maintenance of international peace and security and issued one presidential statement.

### Rule of law and transitional justice in conflict and post-conflict societies

On 19 January 2012, the Council held an open debate on the promotion and strengthening of the rule of law in the maintenance of international peace and security, in the context of which the Secretary-General introduced his report on the rule of law and transitional justice in conflict and post-conflict societies.<sup>1070</sup>

The Secretary-General noted that the work of the United Nations to promote the rule of law extended to more than 150 countries and focused on a broad range of areas. He explained that the United Nations approach in relation to the rule of law had three basic components: to promote accountability and reinforce norms through transitional justice; to build justice and security institutions to promote trust; and to focus on justice for women and girls to foster gender equality. The Secretary-General acknowledged that the Council had helped to bring those priorities to the top of the international agenda, but he said that the Council could do more. He encouraged the Council to include the promotion of transitional justice measures more broadly in the mandates of peacekeeping missions and to reject any endorsement of amnesty for genocide and other serious crimes under international law. He also urged members to bring justice closer to victims by enhancing justice mechanisms and strengthening national prosecutions for serious international crimes.<sup>1071</sup>

During the debate, numerous speakers endorsed the report of the Secretary-General, and some of them highlighted in particular the need for the Council to adhere to basic rule of law principles to ensure the

legitimacy of its actions.<sup>1072</sup> Many speakers highlighted the increasingly active role of the Council in promoting the rule of law. Some speakers noted the connections between the promotion and protection of the rule of law and the maintenance of peace and security,<sup>1073</sup> and several others emphasized the linkage with sustainable development.<sup>1074</sup> Many speakers stressed the primary role of States in ensuring the rule of law and the importance of national ownership in rule of law activities carried out at the international level.<sup>1075</sup> Several speakers expressed their support for the role being played by international tribunals, including the International Criminal Court, in ensuring and promoting the rule of law.<sup>1076</sup> Some speakers also recalled the importance attached to the peaceful settlement of disputes between States and to the specific role of the International Court of Justice in

<sup>1072</sup> Ibid. p. 14 (China); p. 15 (Russian Federation); p. 17 (Pakistan); p. 23 (Brazil); p. 27 (Liechtenstein); and p. 31 (Austria); [S/PV.6705 \(Resumption 1\)](#), p. 9 (Luxembourg).

<sup>1073</sup> [S/PV.6705](#), pp. 12-13 (Morocco); p. 14 (China); and p. 16 (Guatemala); [S/PV.6705 \(Resumption 1\)](#), p. 5 (Finland); p. 7 (Chile); p. 9 (Australia); p. 9 (Luxembourg); p. 10 (Mauritius); p. 13 (Bangladesh); p. 19 (Denmark); p. 21 (Armenia); p. 21 (Kyrgyzstan); and p. 22 (Ethiopia).

<sup>1074</sup> [S/PV.6705](#), p. 4 (Germany); p. 5 (India); p. 7 (Portugal); p. 11 (United Kingdom); p. 13 (Morocco); p. 14 (China); p. 20 (South Africa); p. 23 (Brazil); p.24 (Mexico); and p. 28 (Costa Rica); [S/PV.6705 \(Resumption 1\)](#), p. 4 (Estonia); p. 6 (Switzerland); p. 7 (Chile); p. 8 (Australia); p. 14 (Nepal); p. 17 (Solomon Islands); and p. 19 (Denmark).

<sup>1075</sup> [S/PV.6705](#), p. 5 (India); p. 11 (United Kingdom); p. 13 (Morocco); p. 14 (China); p. 15 (Russian Federation); p.16 (Guatemala); p.17 (Pakistan); p. 20 (South Africa); p. 23 (Brazil); and p. 27 (Liechtenstein); [S/PV.6705 \(Resumption 1\)](#), p. 13 (Sri Lanka); and p. 15 (Nepal).

<sup>1076</sup> [S/PV.6705](#), p. 4 (Germany); p. 6 (Portugal); p. 8 (France); p. 9 (United States); p. 20 (South Africa); p. 23 (Brazil); p. 24 (Mexico); p. 25 (Japan); p. 26 (Peru); p. 27 (Liechtenstein); and p. 30 (Austria); [S/PV.6705 \(Resumption 1\)](#), pp. 2-3 (European Union); pp. 3-4 (Estonia); p.18 (Argentina), p. 20 (Denmark); and p. 23 (Philippines).

<sup>1070</sup> [S/2011/634](#).

<sup>1071</sup> [S/PV.6705](#), pp. 2-3.

that regard as the principal judicial organ of the United Nations.<sup>1077</sup>

At the meeting, the Council adopted a presidential statement,<sup>1078</sup> in which it recognized the need for universal adherence to and implementation of the rule of law, and emphasized that promoting justice and the rule of law was an indispensable element of peaceful coexistence and the prevention of armed conflict. The Council also recognized the importance of national ownership in rule of law activities. It requested the Secretary-General to continue his efforts to further clarify roles and responsibilities within the United Nations system for specific rule of law activities. The Council reaffirmed in the statement its strong opposition to impunity for serious violations of international humanitarian law and human rights law, and emphasized the responsibility of States to thoroughly investigate and prosecute persons responsible for war crimes, genocide, crimes against humanity or other serious violations of international humanitarian law.

#### **Peace and justice, with a special focus on the role of the International Criminal Court**

On 17 October 2012, the Council held an open debate in connection with the theme “Peace and justice, with a special focus on the role of the International Criminal Court”, at which the Minister for Foreign Affairs of Guatemala presided. The Council had before it a concept note prepared by Guatemala, in which it stated, *inter alia*, that the relationship between the Security Council and the International Criminal Court had never been comprehensively discussed in the Council. Therefore, Guatemala had proposed an open debate with a twofold purpose: to explore how the Court, as a tool of preventive diplomacy, could assist the Council in carrying out its mandate to uphold the rule of law, maintain peace and security and combat impunity while ensuring accountability for mass atrocities; and to examine how the relationship between the two bodies had developed over the past decade, and to

consider the way forward in strengthening their linkages.<sup>1079</sup>

The Secretary-General, in his statement, emphasized that the International Criminal Court stood at the centre of a new system of international criminal justice. He affirmed that the Council and the Court could have an impact on each other and could support each other in building local justice responses and in strengthening the rule of law.<sup>1080</sup>

The President of the International Criminal Court emphasized that the Council and the Court were two highly distinct bodies with very different roles but connected by the shared objectives of peace, justice and respect for international law, enshrined in the Charter of the United Nations and the Rome Statute. He affirmed that for the Court to deal effectively with situations referred by the Council under Chapter VII of the Charter, it needed to count on the full and continuing cooperation of all United Nations Member States, whether they were parties to the Rome Statute or not. He added that in making future referrals, it would be very helpful if the Council could underline that obligation of full cooperation. He also noted the difficulty of sustaining a system under which a referral was made by the Security Council on behalf of the United Nations, but the costs of any investigation and trial proceedings were met exclusively by the parties to the Rome Statute.<sup>1081</sup>

The representative of the Prosecutor of the Court affirmed that the relationship between the Office of the Prosecutor and the Security Council could be nurtured and strengthened by extending the interaction beyond specific situations referred by the Council to the Prosecutor and by creating space for open discussion on thematic issues. He added that such dialogue was crucial, as both the Council and the Office of the Prosecutor were committed to preventing mass atrocities which constituted a threat to international peace and security. He not only highlighted the differences in the mandates and organizational structures of the Council and the Office of the Prosecutor, but also what both had in common: namely, the fight against impunity, their respective roles in strengthening the complementary relationship between peace and justice and their respective preventive

<sup>1077</sup> [S/PV.6705](#), p. 4 (Germany); p. 9 (France); p. 14 (China); p. 16 (Guatemala); p. 17 (Pakistan); p. 20 (South Africa); p. 23 (Brazil); p. 26 (Peru); p. 29 (Costa Rica); [S/PV.6705 \(Resumption 1\)](#), p. 2 (European Union); p. 10 (Mauritius); p. 17 (Solomon Islands); pp. 18-19 (Argentina); and p. 21 (Kyrgyzstan).

<sup>1078</sup> [S/PRST/2012/1](#).

<sup>1079</sup> See [S/2012/731](#), annex, paras. 5 and 6.

<sup>1080</sup> [S/PV.6849](#), pp. 2-3.

<sup>1081</sup> *Ibid.*, p. 5.

mandates. In looking forward, the representative of the Prosecutor said that increasing the political and diplomatic support of the Council for the Court was essential. He also mentioned that tools such as avoiding all non-essential contacts with International Criminal Court suspects in order to achieve the arrest of those individuals needed to be further explored. In his view, a new chapter should be added to the relationship with the Council by having the Office of the Prosecutor proactively collect information and monitor situations under preliminary examination and investigate as well as prosecute those most responsible for serious crimes.<sup>1082</sup>

During the debate, many speakers addressed the preventive role of the International Criminal Court.<sup>1083</sup> Other speakers reflected on the challenges in the relationship between the two bodies, underlining both practical and legal implications arising from the referral by the Council of certain situations to the Court.<sup>1084</sup> Some speakers made suggestions with a view to improving that relationship and strengthening common efforts to achieve peace and justice.<sup>1085</sup> A number of Member States criticized the inconsistent

approach of the Council towards different situations and the lack of follow-up to referrals made by the Council.<sup>1086</sup> In that regard, some speakers emphasized the need to address the question of the financial implications of referrals made by the Council.<sup>1087</sup> A number of speakers stressed the need for the Court to achieve a balance between justice and reconciliation and carry out its functions in a manner that supported collective efforts aimed at restoring peace and stability.<sup>1088</sup> Some speakers, in reference to the Kampala compromise reached by the States parties to the Statute of the Court in negotiations in Kampala in 2010,<sup>1089</sup> addressed the issue of the crime of aggression.<sup>1090</sup>

### United Nations system support to the promotion of the rule of law in conflict and post-conflict situations

On 30 January 2013, the Deputy Secretary-General provided an interim briefing on the effectiveness of United Nations system support to the promotion of the rule of law in conflict and post-conflict situations. The Deputy Secretary-General explained that further to internal consultations, the Secretary-General had made a decision in

<sup>1082</sup> *Ibid.*, pp. 6-8.

<sup>1083</sup> *Ibid.*, p. 14 (Portugal); p. 23 (France); and p. 25 (Guatemala); [S/PV.6849 \(Resumption 1\)](#), p. 9 (Bangladesh); p. 10 (Slovenia); p. 13 (Honduras); p. 13 (Lithuania); p. 20 (Belgium); p. 27 (Philippines); p. 28 (Austria); p. 31 (Czech Republic); and p. 33 (Netherlands).

<sup>1084</sup> [S/PV.6849](#), p. 9 (Colombia); p. 11 (India); p. 14 (Portugal); p. 16 (South Africa); pp. 18-19 (Germany); p. 20 (Russian Federation); p. 24 (United Kingdom); p. 28 (Estonia); and p. 29 (Peru); [S/PV.6849 \(Resumption 1\)](#), p. 5 (New Zealand), p. 6 (Australia); p. 7 (Japan); p. 8 (European Union); p. 9 (Bangladesh); pp. 11-12 (Argentina); p. 14 (Lithuania); p. 16 (Costa Rica); p. 20 (Switzerland); p. 20 (Belgium); p. 21 (Mexico); p. 23 (Slovakia); p. 27 (Philippines); and p. 32 (Timor-Leste).

<sup>1085</sup> [S/PV.6849](#), p. 15 (Azerbaijan); p. 16 (South Africa); p. 22 (Togo); p. 23 (France); p. 25 (Guatemala); p. 26 (Luxembourg), p. 27 (Finland); and p. 28 (Estonia); [S/PV.6849 \(Resumption 1\)](#), pp. 2-3 (Lichtenstein); p. 5 (New Zealand); pp. 6-7 (Australia); p. 10 (Slovenia); p. 11 (Argentina); p. 14 (Lithuania); p. 16 (Botswana); pp. 16-17 (Costa Rica); pp. 18-19 (Tanzania); p. 20 (Switzerland); p. 21 (Belgium); pp. 21-22 (Mexico); pp. 22-23 (Tunisia); p. 24 (Spain); pp. 27-28 (Chile); p. 28 (Austria); and p. 33 (Netherlands).

<sup>1086</sup> [S/PV.6849](#), p. 11 (India); p. 20 (Russian Federation); and p. 21 (Togo); [S/PV.6849 \(Resumption 1\)](#), p. 4 (Brazil); p. 5 (New Zealand); p. 19 (Switzerland); p. 22 (Tunisia); p. 28 (Austria); and p. 31 (Czech Republic).

<sup>1087</sup> [S/PV.6849](#), p. 10 (Colombia); p. 14 (Portugal); p. 19 (Germany); p. 21 (Togo); p. 27 (Finland); p. 28 (Estonia); and p. 29 (Peru); [S/PV.6849 \(Resumption 1\)](#), p. 2 (Lichtenstein); p. 5 (New Zealand); p. 9 (Bangladesh); p. 12 (Argentina); p. 14 (Lithuania); p. 14 (Uruguay); p. 19 (United Republic of Tanzania); p. 28 (Austria); p. 29 (Ecuador); p. 32 (Timor-Leste); and p. 33 (Netherlands).

<sup>1088</sup> [S/PV.6849](#), p. 12 (China); [S/PV.6849 \(Resumption 1\)](#), p. 5 (New Zealand); pp. 9-10 (Bangladesh); p. 18 (Lesotho); pp. 18-19 (United Republic of Tanzania); and p. 30 (Sudan).

<sup>1089</sup> For more information on the negotiations in Kampala, including the definition of "act of aggression", as set out in resolution RC/Res.6, annex I, of the International Criminal Court, see *Repertoire*, Supplement 2010-2011, part VII, sect. I, case 7.

<sup>1090</sup> [S/PV.6849](#), p. 13 (Portugal); p. 15 (Azerbaijan); p. 20 (Russian Federation); p. 27 (Finland); and p. 29 (Peru), [S/PV.6849 \(Resumption 1\)](#), p. 3 (Lichtenstein); p. 12 (Argentina); p. 14 (Uruguay); p. 28 (Austria); p. 29 (Ecuador); and p. 32 (Timor-Leste).

September 2012 to realign the United Nations institutional response to the challenges faced in supporting the rule of law in conflict and post-conflict States, as follows: (a) at the field level, the Secretary-General had enhanced United Nations field leadership, making leaders responsible and accountable for guiding United Nations rule of law strategies, addressing local challenges, and coordinating United Nations country support on the rule of law; (b) at Headquarters, the Secretary-General had designated the Department of Peacekeeping Operations and the

United Nations Development Programme as the joint global focal point for the police, justice and corrections areas in post-conflict and other crisis situations in order to support field leadership in carrying out its responsibilities; and (c) at the strategic level, the Secretary-General had strengthened the Rule of Law Coordination and Resource Group, which aims to ensure that the United Nations can foresee emerging opportunities and mobilize partners in response.<sup>1091</sup>

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<sup>1091</sup> [S/PV.6913](#), p. 2.

## Meetings: the promotion and strengthening of the rule of law in the maintenance of international peace and security

<i>Meeting record and date</i>	<i>Sub-item</i>	<i>Other documents</i>	<i>Rule 37 invitations</i>	<i>Rule 39 and other invitations</i>	<i>Speakers</i>	<i>Decision and vote (for-against-abstaining)</i>
<a href="#">S/PV.6705</a> and <a href="#">S/PV.6705 (Resumption 1)</a> 19 January 2012	Report of the Secretary-General on the rule of law and transitional justice in conflict and post-conflict societies ( <a href="#">S/2011/634</a> )		26 Member States <sup>a</sup>	Head of the Delegation of the European Union to the United Nations	Secretary-General, all Council members, all invitees	<a href="#">S/PRST/2012/1</a>
<a href="#">S/PV.6849</a> and <a href="#">S/PV.6849 (Resumption 1)</a> 17 October 2012	Peace and justice, with a special focus on the role of the International Criminal Court  Letter dated 1 October 2012 from the Permanent Representative of Guatemala to the United Nations addressed to the Secretary-General ( <a href="#">S/2012/731</a> )		38 Member States <sup>b</sup>	President of the International Criminal Court, Representative of the Office of the Prosecutor of the International Criminal Court, Head of the Delegation of the European Union	Secretary-General, all Council members, <sup>c</sup> all invitees under rule 39, 35 invitees under rule 37 <sup>d</sup>	
<a href="#">S/PV.6913</a> 30 January 2013					Deputy Secretary-General	

<sup>a</sup> Argentina, Armenia, Australia, Austria, Bangladesh, Brazil, Chile, Costa Rica, Denmark, Estonia, Ethiopia, Finland, Iran (Islamic Republic of), Japan, Kyrgyzstan, Liechtenstein, Luxembourg, Mauritius, Mexico, Nepal, Norway, Peru, Philippines, Solomon Islands, Sri Lanka and Switzerland.

<sup>b</sup> Luxembourg (Vice-Prime Minister and Minister for Foreign Affairs), Finland (Minister for Foreign Affairs), Argentina, Armenia, Australia, Austria, Bangladesh, Belgium, Bolivia (Plurinational State of), Botswana, Brazil, Chile, Costa Rica, Czech Republic, Ecuador, Estonia, Honduras, Japan, Lesotho, Liechtenstein, Lithuania, Mexico, Netherlands, New Zealand, Peru, Philippines, Slovakia, Slovenia, Solomon Islands, Spain, Sri Lanka, Sudan, Switzerland, Timor-Leste, Tunisia, Uganda, United Republic of Tanzania and Uruguay.

<sup>c</sup> Guatemala and India were represented by their respective Ministers for Foreign Affairs.

<sup>d</sup> Armenia, Solomon Islands and Uganda did not make statements.

## 36. Items relating to non-proliferation

### A. Non-proliferation of weapons of mass destruction

#### Overview

During the period under review, the Security Council held one meeting to consider the item entitled “Non-proliferation of weapons of mass destruction” and adopted one resolution.<sup>1092</sup>

#### Increase in the size of the group of experts assisting the Committee established pursuant to resolution 1540 (2004)

On 29 June 2012, the Council unanimously adopted resolution 2055 (2012), by which it requested the Secretary-General to increase to up to nine experts the size of the group of experts created pursuant to resolution 1977 (2011) to assist the Committee

established pursuant to resolution 1540 (2004) in carrying out its mandate.

Following the adoption of the resolution, the representative of Guatemala expressed his appreciation for the work of the Committee and its group of experts.<sup>1093</sup> He added that without the support of the group of experts to Member States, it would be difficult for many to establish plans of action, present national reports and make progress on the measures necessary to comply with the provisions of resolution 1540 (2004). He noted, however, the need to respect the criteria established under resolution 1977 (2011) in selecting the group of experts. He added that in spite of his Government’s reservations concerning the final composition of the group of experts, Guatemala had joined the consensus to avoid affecting the work of the Committee.

<sup>1092</sup> For more information, see part IX, sect. I. B, “Committees established under Chapter VII of the Charter”.

<sup>1093</sup> S/PV.6795, p.2 (Guatemala).

#### Meeting: non-proliferation of weapons of mass destruction

<i>Meeting record and date</i>	<i>Sub-item</i>	<i>Other documents</i>	<i>Rule 37 invitations</i>	<i>Rule 39 and other invitations</i>	<i>Speakers</i>	<i>Decision and vote (for-against-abstaining)</i>
S/PV.6795 29 June 2012		Draft resolution (S/2012/501) submitted by France, Germany, South Africa, United Kingdom, United States			Guatemala	Resolution 2055 (2012) 15-0-0

### B. Non-proliferation

#### Overview

During the period under review, the Council held 10 meetings to consider the item entitled “Non-proliferation”, adopted two resolutions under Chapter VII of the Charter of the United Nations and heard eight briefings by the Chair of the Committee established pursuant to resolution 1737 (2006).<sup>1094</sup> The

Council twice extended the mandate of the Panel of Experts established pursuant to resolution 1929 (2010).

#### Briefings by the Chair of the Committee established pursuant to resolution 1737 (2006)

The Chair of the Committee established pursuant to resolution 1737 (2006) briefed the Council on the activities of the Committee,<sup>1095</sup> which included informal consultations, the receipt of implementation reports, notifications and other communications from Member States pursuant to the relevant resolutions,

<sup>1094</sup> For further information on the Committee established pursuant to resolution 1737 (2006) and the Panel of Experts established pursuant to resolution 1929 (2010), see part IX, sect. I.B, “Committees established under Chapter VII of the Charter”.

<sup>1095</sup> For further information on sanctions measures, see part VII, sect. III.A, “Decisions of the Security Council relating to Article 41”.