

On April 11, 2011, the Sixty-Fifth General Assembly hosted an interactive thematic debate entitled “The rule of law and global challenges” held at the Economic and Social Council chamber, United Nations Headquarters, NY. Split into two panel discussions, the morning session highlighted the “Rule of Law in Conflict Situations” and was chaired by Prince Zeid Ra’ad Zeid al-Husseini, Permanent Representative of Jordan to the United Nations. Secretary-General Ban Ki-moon opened the session by highlighting the timeliness of such a debate as political and social change continues to unfold in the Middle East. He stressed that a proper rule of law serves as the fundamental bedrock of an international world order, and praised efforts made by the International Criminal Court (ICC) and other tribunals in ushering in a “new age of accountability” where crimes against humanity and large scale violations of human rights will no longer go unpunished. The Secretary-General cited the Security Council’s recent referral of the situation in Libya to the ICC as a testament to the international commitment to the rule of law. The SG also commended the General Assembly’s decision to hold a high-level event dedicated to the rule of law in 2012 as another marker towards progress.

Before the panel discussion commenced, statements from delegations offered national perspectives on the rule of law applicable to the broader international community. Christina Tah, Minister of Justice and Attorney General of the Republic of Liberia, stressed the need to provide more attention to the disintegration of social institutions at the local level and the subsequent adverse effects on social values from war. The rule of law, she claimed, must address the psychosocial problems of society and restore harmonious value systems often badly damaged from war. Michael Spindelegger, Federal Minister for Foreign Affairs of the Republic of Austria, urged a greater emphasis on the rule of law in terms of prevention, citing the Secretary General’s quote, “In matters of justice and the rule of law, an ounce of prevention is worth significantly more than a pound of cure.” Mr. Spindelegger stressed the need for the international community to be better prepared to assist States in reform efforts prior to the outbreak of conflict.

The panel’s first speaker, the UN High Commissioner for Human Rights, Ms. Navi Pillay, expressed the need for the international community to send a strong collective message that impunity will not be tolerated. She underscored the state’s responsibilities in not only persecuting perpetrators of human rights violations, but also providing proper reparations that are able to address the particular concerns of women and children. In the endeavor to establish proper rule of law in conflict situations, Ms. Pillay articulated the reality that there could be no one-size-fits all framework. Despite this, she called attention for the need of a universal comprehensive strategy to inform efforts to establish rule of law in conflict situations. The High Commissioner explained that the three core components of this strategy must be proper knowledge, capacity, and commitment. Rule of law must be built on cumulative experiences and lessons in the face of conflict and a depth of expertise that has competence in the cultural and administrative history embedded in conflict areas. This must also accompany sufficient political will of member states to follow through with legal obligations to tackle impunity. Without these elements, rule of law will be very difficult to sustain in the long term.

Jean-Marie-Guehenno, former Under Secretary-General of Peacekeeping Operations, deftly articulated his belief that rule of law must be viewed as a foundation for peace and security, not the end result. A society at peace, he claimed, is one grounded in predictability. There must be stable and transparent legal mechanisms that citizens can readily trust and rely upon to enforce decisions. If the judiciary is incapable of demanding individual responsibility

from its citizens, the people will often seek collective vengeance. Citizens therefore must have the utmost confidence in the law. Mr. Guehenno also offered his compelling view that perceptions of justice are often too narrowly focused solely on the tragedy of the past, neglecting the need to lay the foundation of mutual trust in the future. He stressed that future international interventions must take this consideration into account.

Former Ambassador of the Republic of Slovenia, Ernest Petric, built upon Mr. Guehenno's remarks by reminding delegates that the UN cannot afford to be paternalistic in its discussion of the rule of law, limiting debate of intervention to only developing countries. He also emphasized the importance of the rule of law in protecting the weak and vulnerable in society and advocated for a dedicated international effort to expose and eliminate corruption and organized crime in legal mechanisms. Ambassador Petric also espoused the necessity of the independence of law in its application to citizens in conflict areas.

The final speaker, Michael von der Schulenburg, who serves as the Executive Representative for the United Nations Peacebuilding Office in Sierra Leone, offered insightful analysis on the value of traditional justice systems, arousing considerable debate amongst delegates in attendance. Mr. Schulenburg offered a point of caution in dismissing the importance of traditional models of conflict resolution, citing his personal experience that while most people on the ground have a yearning for justice, they have a very low acceptance of modern court systems. This arises from a general mistrust of lawyers, problems of language, time, funding, and a lack of relational healing among other factors. Mr. Schulenburg warned that if modern formal role of law is pushed onto conflict areas, this could alienate large segments of the population and actually escalate the conflict, as foreign intervention often attempts to move the conflict resolution approach from arbitration to litigation. He also raised the issue of the considerable cost in prosecuting a limited number of perpetrators, and questioned the actual positive impact on civil society. Chairman Prince Zeid of Jordan disagreed with this sentiment, saying that it would not make much sense to return to traditional systems of justice after both modern and traditional approaches had both failed to alleviate the conflict.

After several comments from the other panelists and delegates from the floor on this point, the panel appeared to agree, at the very least, that whether the approach is traditional or modern, both frameworks offer a functioning rule of law as they each attempt to provide an avenue towards justice. There seemed to be consensus that there must be a balance that faithfully considers the merits of both modern legal formality and traditional conflict resolution. The international community still does not have all the answers in advocating for the rule of law, and must embrace humility as it continues to learn from different conflict situations around the globe.