



**STATEMENT BY MR. TARIQ ANWAR, MEMBER OF PARLIAMENT AND
MEMBER OF THE INDIAN DELEGATION, ON AGENDA ITEM 80: THE
RULE OF LAW AT NATIONAL AND INTERNATIONAL LEVEL AT THE
SIXTH COMMITTEE OF THE 61ST SESSION OF THE UNITED NATIONS
GENERAL ASSEMBLY ON OCTOBER 17, 2006**

Thank You Mr. Chairman

First I would like to thank the delegations of Liechtenstein and Mexico for proposing this important subject for inclusion in the agenda of the Sixth Committee.

The rule of law is often advanced nowadays, as a solution to abusive governmental power, economic stagnation and corruption. It is considered fundamental in promoting democracy and human rights, free and fair markets and fighting international crimes and terrorism. It is also seen as an essential component of promoting peace in post-conflict societies. The rule of law may therefore have a different meaning and a different content depending on the objective it is seeking to achieve.

At the national level, in the context of democratic societies, the rule of law is perceived as strict adherence to a set of specific rules that are enforced by an independent judiciary. In addition, those norms should not only be procedurally fair but also conform to a set of higher norms predicated either by international treaties or principles of natural justice.

There is sufficient reason to seriously examine the concept of the rule of law as it functions at the national level and to explore ways of understanding the rather new internationalised context within which it operates today. In this regard it is essential to point out that supranational institutions which are set up to promote rule of law should themselves also be in accord with systems of democratic accountability presupposed by the rule of law. This applies inter-alia to the United Nations and international financial and trading institutions. This

also means that, in accordance with the UN Charter, development of international law is a function of the General Assembly and not the Security Council.

Mr. Chairman,

As regards the application of this concept to implementation of international obligations undertaken in international conventions, the existence of appropriate national legislation embodying international obligations is a prerequisite for accrual of optimal benefits to a country from the use of a particular international regulatory regime. It helps to strengthen the linkages between municipal law and international law, as well as promotes international law.

The setting up of a rule of law assistance unit having a broad mandate would be useful in this context. The dissemination of regular information about actions taken by the General Assembly and other international organizations would be helpful in identifying and evaluating new trends in international law, such as the appearance of guidelines, recommendations and other "non-enforceable" texts. This so-called "soft law" often plays a significant role in the development of contemporary international law and in strategic efforts to amend it.

The provision of information on treaty actions and other relevant developments would help, for example, in areas like the law of the sea. There are many UN agencies, international and regional organizations that have a mandate either wholly or partly relating to the law of the sea. This dispersal of authority leads to overlap and poses a challenge to cooperation and coordination. All these bodies have important legislation: hard law in the form of treaties, protocols as well as numerous soft law instruments in the form of memoranda of understanding, codes, guidelines, plans of action, and non-binding resolutions. These hard and soft law instruments cover a broad range of issues related to the law of the sea: safety of navigation; international fisheries; carriage of dangerous goods; protection of the marine environment; prevention and punishment of crimes at sea, etc. The advantages of having focused information in this field from one source are self evident.

Mr. Chairman

As regards the 'technical assistance' aspect of the proposed rule of law assistance unit, the coordination functions of the unit would be crucial. It would have to operate in a manner so that its functions do not replicate the functions

already being performed by various specialized agencies and organizations of the UN.

In this regard it may be recalled that practically all international organizations have technical assistance programmes whereby these organizations, in their respective fields, undertake law reform assessments to assist governments, legislative organs and other authorities in developing countries in inter-alia drafting of national legislation to implement specific conventions and organize training activities to facilitate the implementation and interpretation of the concerned legislation by judiciaries and legal practitioners. UNCITRAL, UNCTAD, UNEP and UNODC to name a few, all have well developed technical assistance programmes.

However, for several organs and bodies like ICJ, and other Courts, International Law Commission etc., there is presently no institutional examination and dissemination of information about their activities and impact on development of international law. The proposed unit can help fill that gap.

Thank You, Mr. Chairman

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