



Malaysia

Permanent Mission to the United Nations

(Please check against delivery)

STATEMENT BY MS. DOMINIQUE FERNANDES, REPRESENTATIVE OF MALAYSIA, AT THE SIXTH COMMITTEE MEETING OF THE SIXTY-SIXTH SESSION OF THE UNITED NATIONS GENERAL ASSEMBLY ON AGENDA ITEM 83: THE RULE OF LAW AT THE NATIONAL AND INTERNATIONAL LEVELS, NEW YORK, 5 OCTOBER 2011

Mr. Chairman,

First and foremost, Malaysia wishes to align its statement with the statement made by Iran on behalf of the Non-Aligned Movement and by Vietnam on behalf of the Association of Southeast Asian Nations. Malaysia notes the third annual report of the Secretary-General on strengthening and coordinating United Nations' rule of law activities, which focuses on transitional justice in conflict and post-conflict situations.

Mr. Chairman,

2. In the efforts of the United Nations to assist States afflicted by conflicts attain transitional justice, Malaysia cautions against the adoption of a one-size-fits-all approach. In this regard, the diversity of the political, economic and social landscape of all Member States points towards the necessity of transitional justice mechanisms recommended by the United Nations for States in conflict or post-conflict transition to be designed specifically to each conflict zone/national situation which will in turn ensure a smooth transition of the rule of law.

Mr. Chairman,

3. On sexual and gender-based violence perpetrated in conflict situations, Malaysia reiterates the importance of adhering to and implementing United Nations Security Council Resolution 1325 (2000) and call for all parties involved in conflict to take special measures for the protection of women and girls against gender-based violence, especially rape, human trafficking and other forms of sexual abuse and exploitation.

4. Malaysia is perturbed that the international approach to gender-based violence in armed conflicts has not been translated into effective action to obtain accountability from the perpetrators or justice for the victims as demonstrated by the paucity of prosecutions for these offences in the International Criminal Court and ad-hoc international criminal tribunals.

5. In this regard, the capacity for more vigorous prosecution of war criminals who commit or direct the commission of sexual violence in connection with armed conflicts would be facilitated if the transitional justice mechanisms mandated by the United Nations for peacekeeping missions also makes provision for the necessary expertise and technical capacity to facilitate the gathering of the

necessary evidence while addressing ancillary needs such as witness protection and support which is crucial for these types of cases in conflict zones.

6. Malaysia is also of the view that more needs to be done by the United Nations and its organs under a cohesive and coordinated strategy to increase awareness and educate societies to change the perception that sexual violence in armed conflicts is acceptable as “incidental” or “opportunistic” and of less importance than the core crimes of genocide, crimes against humanity and war crimes.

Mr. Chairman,

7. The rule of law and transitional justice is firmly rooted in human rights law and principles, the respect of which is a prerequisite to international peace and security. In this regard, the Human Rights Council plays a crucial role in affirming the rule of law in conflict and post-conflict situations through its special procedures mechanism, by monitoring and reporting on the implementation of human rights obligations and rule of law principles, and constructive international dialogue and cooperation. The thematic mandates of the special procedures will also act to ensure that the fundamental rights of women and children, who are most affected by conflicts are protected and guaranteed by both the international community and their transitional government. This is especially important with the recent establishment of a mandate for a special rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence.

8. Malaysia acknowledges that there are challenges faced by the Council in the effective implementation of its duties as the primary human rights body of the United Nations. There is an obligation on Member States of the United Nations to ensure better cooperation with the special procedures mechanism both in respect of on-site visits and in relation to responses to communications and urgent appeals. Despite these challenges, the evolving working method of the Council in considering the reports of the special procedures and the engagement in substantive interactive dialogues with the special procedures with participation by governments, non-governmental organizations and national human rights institutions from all regions is, in Malaysia’s view an important and under-utilized platform to highlight instances of human rights abuses around the world and the urgent need for responses by the international community.

Mr. Chairman,

9. As a member of the Human Rights Council, Malaysia looks forward to working closely with the Council and its mechanisms including in the discharging of its mandate to assist States in transitioning from conflict or post-conflict situations to the restoration of a functioning and sustainable rule of law. In this regard, the practice of establishing international commissions of inquiry and international fact-finding missions under the auspices of the Human Rights Council to address human rights abuses and the subsequent implementation and compliance with the observations and recommendations of such commissions and missions should be given greater emphasis in ensuring accountability, justice and reconciliation.

Thank you, Mr. Chairman.