

PEACEBUILDING COMMISSION - WORKING GROUP ON LESSONS LEARNED

“United Nations Rule of Law Assistance”¹

20 October 2008, 10AM - 1PM,
ECOSOC Chamber

Concept Note

Overview

- Peacebuilding seeks to lay the foundations for achieving sustainable peace and development on the basis of political and institutional mechanisms to prevent lapse or relapse into violence. As such, it aims to set the stage and create the conditions for peace consolidation, inter alia, through: a) supporting constitution-making and political processes directly linked to the implementation of peace agreements; b) building consensus on a new system of values, norms and institutions that regulate the peaceful management of conflict; and c) enhancing the legitimacy of the state through improved capacity to deliver on human security, welfare, human rights and the rule of law.
- All the countries currently on the Peacebuilding Commission’s agenda have identified the restoration of the rule of law as a critical priority for peace consolidation. Accordingly, this session of **the Working Group on Lessons Learned will focus specifically on rule of law as a key element of peacebuilding.**
- Rule of law is a concept at the very heart of the United Nations Organization’s mission. It refers to a principle of governance in which *all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards.* It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.²
- Overall, the United Nations rule of law assistance is aimed at supporting national authorities in re-establishing, strengthening and/or reforming judicial and legal systems and law enforcement institutions.³ It is extensive in its substantive and geographical scope, with much of it done in post-conflict settings, and ranges from support for the drafting and implementation of national justice and security strategies and development plans to addressing housing, land and property

¹ This note was prepared by the Peacebuilding Support Office in consultation with UN system departments, funds, programmes and agencies, who are members of the Rule of Law Coordination and Resource Group.

² The rule of law and transitional justice in conflict and post-conflict countries, S/2004/616, paragraph 6.

³ Please refer to the Guidance Note of the Secretary-General on the UN Approach to Rule of Law Assistance as well as several DPKO guidelines and manuals such as the Primer for Justice Components in Multidimensional Peace Operations on Strengthening the Rule of Law, the Lessons Learned Studies on Legal and Judicial Rule of Law Work in Multidimensional Peace Operations and on Supporting National Prison Systems, the Prison Support Policy Directive and the Prison Support Guidance Manual.

issues related to refugees and internally displaced persons to combating organized crime to constitution-making and legal reform.

- Five or more United Nations entities are currently working simultaneously on the rule of law in at least 24 countries, the majority of which are in conflict and post-conflict situations; 16 of these countries host Security Council-mandated peace operations. In addressing these areas, it is critical that gender analysis is systematically integrated with a view to ensuring that the rule of law extends to women's human rights entitlements.⁴
- In Afghanistan, for example, United Nations assistance since 2002 has covered a range of activities from support for constitution-making, to drafting national justice and security strategies; comprehensive legal reform and transitional justice; strengthening of the police and other law enforcement institutions; gender justice and justice for children, and from housing, land and property issues relating to refugees and internally displaced persons to combating organized crime. In Angola, following its decade-long involvement in the peace process, the United Nations now focuses on capacity-building for justice and law enforcement, gender justice and legal empowerment of women, combating corruption and organized crime.
- The demand for United Nations rule of law assistance at the national level has been growing steadily. For example, over 12,000 United Nations police officers, out of an authorized strength of 16,900, are currently deployed in 19 peace operations, representing an increase of more than 100 per cent of personnel deployed in this sector since 2006. Two hundred and fifty judicial affairs officers and more than 150 corrections officers are authorized in 12 United Nations peace operations to assist the host-country in legal, judicial and prison reforms. The United Nations is also increasingly engaged in security sector reform.⁵
- Presently, various UN departments, agencies, funds and programmes conduct a range of rule of law activities. Recently a new inter-departmental and inter-agency mechanism was established to ensure policy coherence and coordination among these entities. It consists of the Rule of Law Coordination and Resource Group which is supported by the Rule of Law Unit in the Executive Office of the Secretary-General, with a system of designated lead entities for various aspects of the UN's rule of law framework.
- The establishment of the Office for Rule of Law and Security Institutions (OROLSI) at DPKO in September 2007 has allowed for greater synergy among different elements of rule of law and security sector assistance. OROLSI unifies police, judicial, legal, correctional units, and mine action, disarmament, demobilization and reintegration, as well as new security sector reform functions in support of United Nations peacekeeping operations. It also provides support for policing and corrections in the context of countries with no peacekeeping missions.

⁴ Please refer to the report of the Secretary-General to the General Assembly on the rule of law (A/63/226).

⁵ According to the Report of the Secretary-General on security sector reform (SSR), entitled "Securing peace and development: the role of the United Nations in supporting security sector reform (A/62/659-S/2008/39), SSR describes a process of assessment, review and implementation as well as monitoring and evaluation led by national authorities. It has as its goal the enhancement of effective and accountable security for the State and its peoples without discrimination and with full respect of human rights and the rule of law.

Key Issues for Consideration

Since rule of law assistance is a relatively new area, this session of the Working Group on Lessons Learned will address the following questions:

- What is the relationship between the rule of law and sustainable peacebuilding? How can different rule of law activities support each other and contribute to building durable peace?
- How do specific political contexts influence the UN in rule of law assistance? For example, in an environment where there is a return to violence or where impunity prevails and society is divided on ethnic lines, how can the rule of law agenda be promoted as an immediate priority?
- Which priority tasks have been identified and implemented in rule of law assistance in different post-conflict settings (e.g. constitution-making or “neutralizing the spoilers of rule of law efforts”)? How and for what reasons?
- What are the lessons learned and good practices from UN’s recent experiences in a range of post-conflict countries in helping to design the national security and justice strategies? What timeframes and sequencing have worked best in the development and the implementation of such strategies?
- How can such strategies address the need to restore people’s faith in police and other law enforcement agencies, judicial and correctional institutions which are viewed as weak and/or inherently biased? What mechanisms should be put in place to monitor and evaluate the implementation of such strategies?

Panelists

The session will consist of two consecutive panels, each followed by a Q&A period:

Panel 1:

1. **Ms. Navanethem Pillay**, UN High Commissioner for Human Rights, former judge of the International Criminal Court and the International Criminal Tribunal for Rwanda;
2. **Mr. Alvaro de Soto**, former UN Under Secretary-General and Special representative of Secretary-General for Cyprus, El Salvador, the Middle East and Western Sahara;

Panel 2:

1. **Mr. Jamal Benomar**, Director, Rule of Law Unit, Executive Office of the UN Secretary-General;
2. **Mr. Robert Pulver**, Chief of Criminal Law and Judicial Advisory Section, Office of Rule of Law and Security Institutions, Department of Peacekeeping Operations;
3. **Ms. Yasmine Sherif**, Chief of Rule of Law programme, Bureau for Crisis Prevention and Recovery, United Nations Development Programme.

Outcome

Following the meeting the Secretariat will prepare a *Chair’s Summary* highlighting key principles that could guide further work on UN Rule of law assistance in post-conflict countries. The document will be distributed to PBC Chair and the Chairs of the various country-specific configurations.