

REPORTS ON RECENT SPECIALIZED IPU MEETINGS

(f) PARLIAMENTARY MEETING ON *PARLIAMENTS AND THE RULE OF LAW: TOWARDS JUSTICE FOR ALL*

26 September 2012, United Nations, New York

Summary of the discussion

Some 90 people attended the meeting, including members of parliament (MPs), parliamentary staff, Mission representatives, UN officials and NGO representatives.

The meeting was divided into two interrelated panel discussions¹. At the first session the negotiation process leading to and the outcome of the High-Level Meeting of the General Assembly on the Rule of Law, held two days earlier, were critically examined. Discussions during the second session focused on the role that parliaments can play in building trust in the justice system.

1. The UN Declaration in perspective

The negotiations leading to the Declaration of the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels were complex. The High-Level Meeting was the first time heads of State had come together specifically to discuss the rule of law. It was also a first attempt to shed light on the cross-cutting nature of the rule of law and to examine how the rule of law affects the three pillars of the United Nations: development, security, and human rights.

All panellists agreed that, in view of the complexities involved, the Declaration was a welcome development in that it provides a solid platform for further debates on the rule of law at the United Nations and around the world:

- The Declaration provides a full definition of the rule of law.
- It reflects the full scope of the rule of law, ranging from peacefully settling disputes among States to offering vulnerable groups access to justice.
- It recognizes that the rule of law is central to all three pillars of the United Nations and calls for the interrelationship between the rule of law and development to be considered in the post-2015 international development agenda.
- It stresses the importance of independent judicial systems.
- It reaffirms the principle of equality of men and women and protection of the rights of child.
- It characterizes corruption as an element that obstructs economic development and erodes public confidence, legitimacy and the rule of law itself.
- It states that there should be fair and clear procedures in the actions of the Security Council and obliges countries to comply with decisions of the International Court of Justice.

¹ For a list of speakers, please refer to the programme.

Despite these achievements, a number of weaknesses were detected in the Declaration. Suggestions for ways of strengthening it included the following:

- The Declaration should contain more robust language on impunity, to address all forms of human rights violations.
- It should more explicitly list the features that informal justice mechanisms need to have if they are to comply with international human rights law and clearly make it a requirement for standards of due process to be included in those mechanisms.
- It should be more strongly worded with regard to the obligation of compliance with international humanitarian law and explicitly refer to the need to protect humanitarian workers and journalists.

The Declaration highlights various institutions that support the rule of law, making particular reference, in paragraph 34, to the essential role of national parliaments and the IPU. Nevertheless, speakers pointed out that the Declaration would have been stronger had it stressed the democratic and representative nature of parliament and specified the legislative and oversight roles that parliaments must play if they are effectively to uphold the rule of law.

It was also noted, however, that the Declaration is a dynamic document and that there was plenty of scope to take ownership of it. The Declaration does not give specific guidance on how to proceed with the rule of law agenda in an inclusive manner and on how to ensure national ownership. A Secretary General report had contained a suggestion to set up a consultative forum to allow stakeholders, including parliaments and the IPU, to help shape the agenda. That recommendation was omitted from the Declaration, but discussions on how to ensure an inclusive dialogue should be pursued in the future.

2. Parliaments' role in building trust in the justice system

On the national level, parliaments play a crucial role in strengthening trust in the justice system. Parliaments oversee the actions of the Executive, they have the power of the purse, they pass laws and, since they communicate with their constituents, they are best equipped to highlight any inequities that may undermine the rule of law. The panellists came up with a number of specific ideas on how parliaments can contribute:

- Parliaments can make debates on laws more inclusive.
- They can pass laws that guarantee the right to legal aid and that allow people to represent themselves in court.
- Parliaments can have laws printed and published and can earmark funding to ensure that the general public is aware of them.
- They can vet judges and ensure that all their decisions are available online;
- They can reduce impediments to information and communication, inter alia, by providing free access to computers in libraries.
- They can also ensure that international NGOs working to strengthen the rule of law are free to provide legal advice and assistance to people in need.

Regional parliaments, such as the European Parliament, can uphold the rule of law by tying financial aid to reform, sharing best practices and deploying election observer missions to assist in a non-partisan manner.

Inter-parliamentary organizations such as the IPU can provide normative benchmarks and technical assistance. At the same time, it was suggested that the IPU should exert pressure on the main organs of the United Nations and other multilateral institutions to ensure that the rule of law is mainstreamed in their work, helping to ensure that the rule of law is a firm foundation of international governance.

