

**STATEMENT BY MR. THOMAS F. MCINERNEY
DIRECTOR OF RESEARCH, POLICY, AND STRATEGIC INITIATIVES
INTERNATIONAL DEVELOPMENT LAW ORGANIZATION**

**UNITED NATIONS GENERAL ASSEMBLY
SIXTY-FOURTH SESSION
SIXTH COMMITTEE**

**ITEM 84: THE RULE OF LAW AT THE
NATIONAL AND INTERNATIONAL LEVELS**

WEDNESDAY 14 OCTOBER 2009

1. IDLO is honored to have the opportunity to address this Committee on a subject that relates closely to the central interests and mandate of our Organization. We view it as an important occasion to contribute to the work of this Committee on the rule of law at the national and international levels by taking a broad view of developments on this topic from both the policy and programming points of view. Thanks to the substantial work of the United Nations in defining and clarifying the rule of law agenda in recent years, the field is clearly moving to greater unity and agreement on fundamental ideas. This development marks a key enhancement in the field.
2. Since we last addressed this Committee, IDLO has continued to transform itself as an organization devoted to meeting the needs of developing countries for assistance in the rule of law field as an integral part of their sustainable development plans and strategies. In November of last year, our Assembly of member parties approved a four-year strategic plan for 2009-2012 and approved the Organization's adoption and implementation of a results-based management system.
3. IDLO's Strategic Plan advances an innovative approach to rule of law assistance, employing insights that have also arisen through the wide-ranging policy development work of the UN Secretariat on rule of law in recent years. In addition, we have made internal management changes that are enabling us to more efficiently respond to the needs of our developing country partners for assistance on rule of law. Moreover, we are developing an approach to evaluating our rule of law programming, which is enabling us to continually improve the quality of our work thereby enhancing its impact. We have further developed a

- leading program of research on rule of law, focusing on issues of justice and security sector reform in post-conflict settings and legal empowerment, which we are sharing and will continue to share with the international community to help inform policy and practice.
4. Of interest to today's agenda is how IDLO as a development agency has come to see its role at the intersection of international and national law. Our motto is thus to "think globally but work locally". The vast array of international law that has been created through this body and other international fora in the past century, has required all countries to make changes to their legal systems to give effect to international obligations. Experience with implementing international standards at the domestic level teaches that the process is often more complicated than simply adopting an international norm. Instead, what is needed is not only adoption but also adaptation. International norms and standards must be made to fit with domestic systems, to harmonize with the broad elements of those systems, and mechanisms for enforcement and adjudication of claims arising from those standards must be designed to fit with the practices and structures of national institutions. IDLO understands much of its work to involve such processes of adaptation, which, in accordance with principles of national ownership that govern development and rule of law assistance generally, must gain an organic footing in developing countries.
 5. To ensure that international norms and standards are rooted in national legal systems, international rule of law assistance must not focus solely on law as a technocratic matter but instead seek to advance broader socio-economic development as part of that process. Reform of law and institutions that is not supported by adequate resources needed to maintain such reforms over time will uphold neither rule of law nor development. For this reason, IDLO's Strategic Plan views rule of law as running through all aspects of economic, social, and institutional development in areas ranging from investment to microfinance, health to environment, and anti-corruption to the judiciary.
 6. On the research agenda, IDLO has long agreed that the rule of law development field lacked solid evidence on which to base programming. Our research activities relate to the rule of law from both supply and demand sides. On the supply side, we are conducting research on experience with building state institutions in post-conflict and post-crisis settings. This year we have published a *Manual on International Law and Standards Applicable in Natural Disaster Situations* and drafted a guidance document for UNDP on Rule of Law Programming in Conflict and Post-Conflict Societies. Later this year we will publish a book on IDLO's experience in advancing rule of law reforms in Afghanistan.

7. On the demand side, IDLO has developed a comprehensive research program involving 11 countries to focus on legal empowerment or, in the words of the Commission on Legal Empowerment of the Poor, “making the law work for everyone.” This research program will provide empirically-grounded insights to support the international community’s efforts to promote legal empowerment programming. Areas of study include access to justice, land, girls’ and women’s issues, microfinance regulation, customary justice, and traditional knowledge. We are developing good programs of collaboration with the UNDP to advance this agenda in a number of countries. We note that legal empowerment is on the agenda of another Committee of the General Assembly this year and hope that IDLO’s legal empowerment work will serve to further expand the opportunities we have to collaborate with operational entities in the UN.
8. IDLO sees these two streams of research not as parallel and independent but part of a dynamic and mutually-reinforcing approach to rule of law development. Reform of institutions has to be based on an understanding of the needs of the consumers of rule of law—the citizens—and work with disadvantaged communities must find ways in which the existing institutions can support their needs and aspirations. Such goals are important not only as ends in themselves but also as means of conflict prevention. We in IDLO are approaching our work on legal empowerment of the poor as an integral part of our effort to advance the rule of law. We are convinced that here too at the UN it would be beneficial for these two streams of UN system engagement to be pursued in a mutually reinforcing way, guided by a vision of the rule of law, to quote General Assembly resolution 63/142 as “essential for sustained economic growth, sustainable development and the eradication of poverty.”
9. To implement our strategy, we are working with a number of groups on a variety of issues in diverse situations. In such countries as Afghanistan and southern Sudan, we are promoting judicial reform through extensive judicial and legal training, as well as through the provision of necessary information in benchbooks and a human rights glossary. Also in Afghanistan, we established the first legal defense service for the poor and a unit within the Attorney General's office targeting violence against women. In Aceh, following our post-tsunami work, we initiated a project on reducing emissions from deforestation and degradation (REDD) to better understand the issues that need to be resolved between indigenous people and those looking to preserve forests. We are working closely with UNDP and UNAIDS on a legal services toolkit that will ensure that people living with HIV, their families and other vulnerable populations have access to justice, and we are implementing projects in selected countries to provide these services. Finally, with our program on microfinance,

we have built a network of practitioners throughout the developing world that enables information sharing in order to build regulatory frameworks that protect both borrowers and lenders.

10. IDLO supports and seeks to contribute actively to the effort to improve overall effectiveness and coherence of rule of law work, which the Sixth Committee is spearheading. We have developed two web-based platforms that respond directly to this policy imperative. First, we have developed the Rule of Law Assistance Directory for all international actors involved in rule of law assistance to contribute information on their programming, which can support harmonization and coherence of development assistance in this area. Similarly, we have developed the National Justice Sector Strategy Resource to provide comprehensive information on national strategies for justice sector reform, in an effort to build knowledge around experience in national rule of law strategy development and implementation. Both of these platforms go well beyond inventories of the work of the UN on rule of law by including the work of all bilateral, NGO, multilateral, and academic actors, which contribute substantially to international work in this field. We have made a deliberate effort to make our UN Secretariat colleagues aware of these tools and hope that this Committee will view them as a useful contribution to its effort to advance the coherence and effectiveness agendas and will encourage all concerned to utilize and build on them.
11. In terms of regional focus, IDLO's research and programming work devotes substantial attention to the needs of African states and legal communities. We are in the process of developing a framework through which IDLO will assist the African Union in its efforts to promote rule of law on the continent. We have also conducted missions in collaboration with the Peacebuilding Commission to Central African Republic. Currently, IDLO is working with the Committee of Experts on Constitutional Review in Kenya to advance the process of constitutional reform in that country. IDLO is assisted in its work in Africa with a substantial network of alumni, including 24 national IDLO alumni chapters, which we are using as the basis for providing and galvanizing South-South cooperation on legal reform.
12. IDLO has enjoyed an increase in membership during the past year and encourages all states that have a commitment to rule of law to join our growing list of members. IDLO's work on rule of law is designed to complement the work of the United Nations and other international institutions and can thus make states support to those other institutions more effective.

13. To close, IDLO is encouraged by the attention the rule of law at the national and international levels is receiving in this Committee and elsewhere in the UN system. Having worked on these issues in developing countries for more than 25 years, IDLO draws inspiration from the positive successes that countries have achieved in rule of law. Improving rule of law is not a distant or impossible dream. It is eminently achievable through concerted effort involving all of us in the international community, national governments, civil society, academics, and legal communities. IDLO seeks to support all of these national processes of law reform and looks forward to partnering with you to make these dreams reality.