
CONSTRUCTING THE POST-2015 DEVELOPMENT AGENDA: THE RULE OF LAW AS A DRIVER OF INCLUSIVE DEVELOPMENT OPPORTUNITIES

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Conference Room 6, North Lawn Building (NLB)



The Round Table was organized by the International Development Law Organization (IDLO) with the Rule of Law Unit in the Executive Office of the Secretary-General (EOSG) and the support of the Government of Finland

INDEX

Programme	2
Concept note	3
Remarks by Amb. J. Viinanen, Permanent Representative of Finland to the UN	5
Remarks by J. Eliasson, UN Deputy Secretary-General	6
Remarks by I.Khan, IDLO Director-General	8
Remarks by Amb. M. Khan, Permanent Representative of Pakistan to the UN	10
Remarks by Amb. Bernardini, Deputy Secretary General, Italian Ministry of Foreign Affairs	12
Remarks by S. Fukuda-Parr, Professor, The New School	14
Remarks by G. G. Molina, Chief Economist, RBLAC (UNDP)	16
Remarks by Amb. E. Apakan	18
 Annex I- Flickr, Storify, UN webcast	 20

The International Development Law Organization (IDLO) with the Rule of Law Unit in the Executive Office of the Secretary-General (EOSG) and the support of the Government of Finland invite you to a Roundtable on

CONSTRUCTING THE POST-2015 DEVELOPMENT AGENDA THE RULE OF LAW AS A DRIVER OF INCLUSIVE DEVELOPMENT OPPORTUNITIES

10 AM-1 PM, January 17, 2014
Conference Room 6, North Lawn Building, UN Headquarters, New York

PROGRAMME

OPENING REMARKS:

Ambassador Jarmo Viinanen, Permanent Representative of Finland to the United Nations

KEYNOTE SPEECH:

Mr. Jan Eliasson, Deputy Secretary-General of the United Nations

DISTINGUISHED PANEL:

Moderated by Irene Khan, Director-General, International Development Law Organization

Ambassador Masood Khan, Permanent Representative of Pakistan to the United Nations

Ambassador Antonio Bernardini, Deputy Secretary General, Italian Ministry of Foreign Affairs

Prof. Sakiko Fukuda-Parr, Professor of International Affairs, The New School

George Gray Molina, Chief Economist, Regional Bureau for Latin America and the Caribbean, UNDP

Ambassador Ertuğrul Apakan, Chair – IDLO Board of Advisers (former Permanent Representative of Turkey to the United Nations)

Between 3 and 7 February, the Eighth session of the Open Working Group on Sustainable Development Goals will include a focus on "Conflict prevention, post-conflict peacebuilding and the promotion of durable peace, rule of law and governance". Seeking to contribute to the preparations for the session, the present Roundtable will explore key challenges and showcase practical experiences and opportunities with regard to the contribution that the rule of law can make to tackling many of the issues likely to be at the core of the new development framework: combating poverty, advancing inclusive growth and social inclusion, and promoting environment sustainability.

The rule of law is increasingly emerging as a central issue in shaping the post-2015 development agenda, but a number of basic questions remain to be fully answered:

- How will the rule of law practically support the achievement of the new development goals, and specifically how does it help achieve greater inclusiveness and sustainability of development outcomes?
- What are the actual benefits and the value-added that good rule of law frameworks can bring to the new development agenda?
- To what level should the rule of law be aggregated or disaggregated from related questions of governance, democracy, peace and security and human rights?

Across all of these issues, the Roundtable will highlight the human dimensions of the rule of law. It will look not only at fair processes but also at the fairness of outcomes, and at the actual improvements the rule of law can bring about in the real lives of people.



With the Support of the Government of Finland

CONCEPT NOTE

"The advancement of the rule of law at the national and international levels is essential for sustained and inclusive economic growth, sustainable development, the eradication of poverty and hunger and the full realization of all human rights and fundamental freedoms, including the right to development, all of which in turn reinforce the rule of law."

-Declaration of the High-Level Meeting of the General Assembly on the Rule of Law at the National and International Levels, 2012

The rule of law is increasingly emerging as a central issue in shaping the Post-2015 development agenda. In 2012, the Outcome Document of the Rio +20 Conference on Sustainable Development stated:

"Democracy, good governance and the rule of law, at the national and international levels, as well as an enabling environment, are essential for sustainable development, including sustained and inclusive economic growth, social development, environmental protection and the eradication of poverty and hunger."

More recently, the Co-chairs of the Opening Working Group on Sustainable Development Goals (OWG) in their concluding remarks at the 6th Session of the OWG said:

"Good governance based on human rights, rule of law, access to justice and to information, transparency and accountability, is a prerequisite for sustainable development."

Between 3 and 7 February, the Eighth session of the OWG will include a focus on "Conflict prevention, post-conflict peacebuilding and the promotion of durable peace, rule of law and governance". Seeking to contribute to the preparations for the session, the present Roundtable – organized by IDLO with the Rule of Law Unit in the Executive Office of the Secretary-General and the support of the Government of Finland – will seek to explore key challenges and showcase practical experiences and opportunities with regard to the contribution that the rule of law can make to tackling many of the issues likely to be at the core of the new development framework: combating poverty, advancing inclusive growth and social inclusion, and promoting environmental sustainability.

THE RULE OF LAW AND SUSTAINABLE DEVELOPMENT

The challenge ahead for the international community is to design a strong post-2025 development agenda, built on the foundations laid by the Millennium Development Goals

(MDGs) that both complete the unfinished business and respond to new challenges.

As the deadline for achieving the MDGs approaches, discussions on the new post-2015 development framework continue to gain momentum. Motivated by a strong sense of urgency and commitment, key actors and stakeholders are looking at ways to achieve a more effective balance and integration among the policies guiding the economic, social and environmental pillars of development, as well as at the practical tools and means of implementation needed to bring about development that is both inclusive and sustainable.

The report of the High-level Panel on the Post-2015 Development Agenda has highlighted a number of key dimensions of the contribution of the rule of law to sustainable development, noting the importance of institutions that guarantee the rule of law and impartial arbitration of disputes. Other contributions have highlighted "good governance" dimensions, the relationship between the rule of law and the advancement of human rights, and the importance of an effective framework of rules and regulations to achieve effective development outcomes. Many have argued for the integration of the rule of law in the new framework, either as a stand-alone goal, or in support of other development goals.

While most of the issues involved are on the table of the negotiators, there are a number of basic questions that remain to be fully answered:

- How will the rule of law practically support the achievement of the new development goals, and specifically how does it help achieve greater inclusiveness and sustainability of development outcomes?
- What are the actual benefits and the value-added that good rule of law frameworks can bring to the new development agenda?
- To what level should the rule of law be aggregated or disaggregated from related questions of governance, democracy, peace and security and human rights?

THE ROUNDTABLE

The OWG has been tasked with the preparation of a proposal on sustainable development goals (SDGs), which should, among other things, be aspirational, global in nature and universally applicable to all countries. By bringing together different stakeholders, the Roundtable will seek to inform the debate, in advance of the OWG's deliberations,

on how integrating the rule of law into the new development agenda can make a crucial contribution towards a development path that is both more equitable and more sustainable, and produce significant benefits equally for governments, communities and individuals.

The Roundtable will discuss the role that the rule of law plays or can play both in support of other development goals and as an outcome of development in itself. The discussions will seek to reveal that the rule of law is not an abstract and remote concept but can be effectively translated into practical, constructive solutions to address multiple and intersecting developmental objectives, from health and the sustainable management of natural resources to women's empowerment and gender equality and non-discrimination. Panelists will highlight how effective, rights-based rule of law frameworks, by

empowering and giving voice to the end users of development initiatives, promoting access to justice, addressing discrimination and keeping the focus on the vulnerable and marginalized, especially those experiencing extreme poverty, can serve to significantly advance the achievement of development objectives. Panelists will also share their experiences on how to ensure that agreed policy is fully implemented at the national level, and how to measure the impact of rule of law work. Institutional implications of effectively integrating the rule of law in the new development agenda will also be addressed.

Across all of these issues, the Roundtable will highlight the human dimensions of the rule of law. It will focus on the "lived" experience of the rule of law, fair processes and also fair outcomes, and at the actual improvements it brings about in the real lives of people.

REMARKS BY AMBASSADOR JARMO VIINANEN PERMANENT REPRESENTATIVE OF FINLAND TO THE UNITED NATIONS

Mr. Deputy Secretary General, Distinguished Panelists,
Madame Moderator, Excellences, Ladies and Gentlemen

I am delighted to welcome you all to this roundtable to discuss the role of the rule of law while in the post- 2015 development agenda.

We are grateful to IDLO for taking an active role in fostering discussion on this matter and by organizing this meeting, which Finland is happy to support as part of IDLO's wider study on the rule of law in the post-2015 development agenda.

This is a very timely moment with the view of the Eighth session of the Open- ended Working Group taking place from 3 to 7 February with a focus on "Conflict prevention, post-conflict peacebuilding and the promotion of durable peace, rule of law and governance."

Promoting the rule of law is one of the priorities for Finland. It is our firm belief that the rule of law and good governance belong to the cornerstones of sustainable development of our societies. They ensure equality and equal treatment of all citizens and form the basis for economic and social development as well as for an equitable social policy. They allow people to participate in planning the development of their societies and in making decisions that affect their daily lives. Strengthening the rule of law will foster enabling environments for sustained economic growth and for reduction of poverty. Adequate legal frameworks are needed to boost entrepreneurship and public and private sector investment.

A state governed by the rule of law is based on respect for and realization of universal human rights. The law is the same for everyone, and the rights of minorities are ensured. The rule of law is a core principle of the international system with its main components: legality, equality, accountability and participation.

Our challenge is to make sure that the rule of law, human rights and good governance have a prominent role in the future development framework. In fact, an international consensus has emerged concerning the critical importance of the rule of law for sustainable development as stated in the 2005 World Summit outcome document, the 2010 MDG outcome document and the Rio+20 outcome document.

The UN High-Level Meeting on the Rule of Law held on 24 September 2012 underlined the interrelationship between the rule of law and the three pillars of the United Nations: peace and security, human rights and development. The declaration adopted at the high-level meeting pointed out that the rule of law and development are strongly interrelated and mutually reinforcing. It further affirmed that the rule of law should be considered in the post-2015 development agenda. It is our task to make sure that this mission will be accomplished.

The cross-cutting nature of the rule of law requires a comprehensive approach from the UN and member states. The linkages of the rule of law and development with peace and security are evident.

An important step forward would be to develop methods for measuring the progress of peace, the rule of law and governance in concrete terms in the same way as different social, economic and political conditions are already being measured. Finland has supported the UN work to develop a set of Rule of Law indicators in the field of criminal justice institutions in conflict and post-conflict situations (lead by DPKO and OHCHR). The purpose of this instrument is to monitor changes over time within countries. It is not meant to support direct comparisons between countries or rank them. The instrument is to be implemented in collaboration with national Governments.

Finland attaches great importance to the equal right of men and women to fully participate in decision-making, institutions of governance and justice. An example of our support to this end is the Access to Justice Programme in Central Asia with the main focus on poor rural women, children at risk and persons with disabilities. This programme aims to strengthen persons' knowledge of their own rights and local authorities' understanding and knowledge of the legal problems these groups are facing.

The civil society plays an important role in advancing the rule of law at the national and international levels as a source of ideas, provider of assistance to victims or as a facilitator of dialogue. We must make sure that our close cooperation with the civil society actors will continue in this process.

To conclude, I would like to wish you fruitful discussions around this important topic.

REMARKS BY JAN ELIASSON DEPUTY SECRETARY-GENERAL OF THE UNITED NATIONS

I thank the Permanent Mission of Finland and the International Development Law Organization for hosting this important event. I also welcome the impressive group of panelists. Together we will be exploring some fundamental shifts that are happening in the international development agenda.

In the year 2000, world leaders agreed on a historic 15-year blueprint to address poverty. As the work to reach the Millennium Development Goals approaches its deadline, there is growing understanding that our efforts could have been enhanced by placing more emphasis on justice and the rule of law.

Member States are now working to formulate a post-2015 development agenda. Today's meeting is an opportunity to show why the rule of law should play a central role in this agenda.

In September 2012, at the General Assembly's first-ever High-level Meeting on the rule of law, 193 Member States united around the idea that development and the rule of law are mutually reinforcing. Since then, this conclusion has been reiterated by Member States, the Secretary-General and many others in the international community.

At today's panel discussion we are to consider the concrete benefits provided by the rule of law: What is the value-added of robust rule of law? How will the rule of law support the achievement of development goals? How is it related to other agendas such as institution-building and governance?

Justice and the rule of law are themselves goals of development, but they are also essential to the achievement of many other development objectives.

The rule of law helps in the establishment of a functioning regulatory system that fosters equitable private sector growth, a primary driver of sustainable development.

The rule of law can ensure accountability and assist in making basic services available for all, such as education, health and sanitation.

The rule of law can empower citizens to address underlying causes of inequality and exclusion, one of the principal fault lines exemplified by the MDGs.

We must therefore do more to ensure that robust legal frameworks are in place to support the full range of development outcomes, from health and management of natural resources, to women's empowerment and non-discrimination.

Responsive, strong institutions are critical to development. Institutions anchor and build legal frameworks, thereby delivering justice and supporting sustainable development.

Strong rule of law institutions are bulwarks against corruption. Corruption distorts markets, breeds distrust in government and hinders sustainable development.

Fighting corruption is important to both economic and community development. The Asian Development Bank has reported that corruption can cost a country up to 17 percent of its GDP. It has been estimated that every year the developing world loses as much as US\$1 trillion in illicit outflows through government corruption, criminal activity and tax evasion.

In 2012, 50 percent of Afghan citizens paid a bribe when requesting a public service. On average, the highest bribes were paid to officials from key rule of law institutions. The result is that many ordinary citizens in Afghanistan cannot afford access to the justice system.

Accessible justice institutions ensure that even the most vulnerable individuals and communities can seek redress when wrongs are committed. When people can seek redress for wrongs from their institutions, they are willing to invest in their community and country.

In the Philippines, the Asian Development Bank studied the impact of training community members as paralegals to support agrarian reform. Farmers in communities with paralegals saw higher levels of productivity, higher farm incomes, and more investment in their farms.

Women and vulnerable groups frequently face both structural and cultural barriers in accessing justice. When we empower women and vulnerable groups to vindicate their rights, they are better equipped to bring about change in their communities and to realize their potential in decision-making and development.

Institutions that are accountable to the law and to the people they are to serve, foster public confidence. Transparent institutions that operate in accordance with the rule of law create political stability and promote inclusive economic growth.

In India, filing claims under the Right to Information Act has helped New Delhi slum dwellers obtain ration cards for subsidized foodstuffs. A Yale University study found that 94% of applicants who filed inquiries into the status of their application received their cards within a year. Empowering citizens to hold institutions accountable supports access to services and sustainable development.

Ladies and Gentlemen,

I have briefly outlined the importance of the rule of law to the new development agenda. Our speakers today will explore this further – many from first-hand experience. The perspective of the International Development Law Organization – given its engagement on the ground in many countries – is invaluable.

Our future development agenda should be ambitious and inspirational. It should have sustainable development at its core, with poverty reduction as its priority. And the rule of law clearly deserves a place on this agenda.

Thank you. I look forward to a fruitful discussion.

REMARKS BY IRENE KHAN IDLO DIRECTOR-GENERAL

Mr. Deputy Secretary General, Excellencies, Ladies and Gentlemen:

It gives me great pleasure to welcome you to this Roundtable co-organized by my organization IDLO and the Rule of Law Unit in the Executive Office of the Secretary General, with support from the Permanent Mission of Finland. Between 3 and 7 February the eighth session of the Open Working Group will focus on the Conflict Prevention, Post-Conflict Peace-building and the Promotion of Durable Peace, Rule of Law and Governance

As we move towards the eighth session of the Open Working Group on Sustainable Development, this Roundtable aims to provide an opportunity for an inter-active discussion on the Rule of Law as a driver of Inclusive Development, and to further our understanding of how the rule of law can best be incorporated in the post-2015 Agenda.

In a few minutes, I will introduce our distinguished panelists - from the diplomatic, academic and policy community.

But before I do so, allow me to say a few words, from the perspective of IDLO, and as a lawyer on why the rule of law matters

As the only inter-governmental organization exclusively devoted to the rule of law and development, we work in some of the poorest and most dangerous parts of the world, as well as in emerging economies, such as Kenya and parts of Latin America. Our experience is that preserving peace, protecting the planet, eradicating poverty and encouraging economic opportunity all require good laws and regulations that are fairly administered by transparent and accountable institutions and that produce fair outcomes for the poor as well as the rich.

Inequality thrives when the rule of law does not properly function: when people are not able to participate freely and express their views without fear of reprisal; when the law itself discriminates against women and minorities; when opportunities are only open to a few based on wealth and privilege; when poor neighborhoods face higher levels of crime but are less likely to be policed as well as rich neighborhoods; when corruption, bribery and discrimination distort access to basic services; when the law is selectively enforced in favor of the rich and powerful and against the poor, for instance when tax fraud is ignored but vagrancy laws are rigorously applied.

The rule of law is key to equitable, inclusive and sustainable development.

By "the rule of law" I do not mean just the formal application of law - that is what I would call rule *by* law. The law alone is not enough. In fact, there may be situations where the law itself discriminates and excludes poor people from its protection: for example, when the law fails to protect women from gender based violence; or migrants who have no identity papers are exploited as "illegal"; favelas or urban slums that are not recognized by the authorities and so the people who live there have no access to water, sanitation or other basic services; children who have no birth registration and so are deprived of legal identity and cannot access health care or education.

The rule of law - properly understood - must be consistent with international human rights norms and standards, so that it provides not only certainty and predictability but also justice. Equality, accountability and respect for human rights - economic, social and cultural rights as well as political and civil rights - are integral parts of this concept of the rule of law.

The rule of law is not an abstract concept but a concrete basis on which to

- › Fight discrimination and exclusion
- › Ensure equitable, affordable and meaningful access to basic services
- › Set regulatory frameworks for natural resource management that provides fair and sustainable development outcomes.
- › Provide access to justice and appropriate remedies, when rights and entitlements have been denied
- › To empower people to claim their rights and hold institutions accountable.

The rule of law helps to build people's confidence in institutions. It also helps to deliver concrete development outcomes, locally owned and tailored to local needs. Therefore the rule of law is both an enabler of sustainable development, and also relevant to directly to the sustainable development goals as a crosscutting issue.

If the post-2015 Agenda is to be coherent, convergent and consistent, then the rule of law must underpin development and sustainability. That is what I believe the High Level Meeting on the Rule of Law in 2012 called for.

By doing so, we would put justice firmly at the core of development - and when I say "justice", I do not mean the kind of justice that lawyers seek in courts but the kind of justice that people instinctively recognize, and are demanding around the world.

REMARKS BY AMBASSADOR MASOOD KHAN PERMANENT REPRESENTATIVE OF PAKISTAN TO THE UNITED NATIONS

First of all, I thank Deputy Secretary General Jan Eliasson for his substantive and inspiring thoughts on a very important issue which is becoming a strong contemporary trend.

We convey our deep appreciation to Ambassador Jarmo Viinainen for his facilitation of today's event. This initiative taken jointly by the International Development Law Organization (IDLO), the Executive Office of the Secretary-General and the Mission of Finland is most timely.

I want to pay a special tribute to Ms Irene Khan for her leadership on the rule of law and of the IDLO.

One generalization that can be made safely to define the rule of law is that nobody is above the law. This adage captures the essence of what we are aspiring to do in the realm of economic development.

The rule of law implies that we continue to make *new* laws to protect rights of individuals, communities and nations; and we reform existing laws to address deficits in rights protection and fight impunity and discrimination at all levels and in all situations.

It is axiomatic that the rule of law, sustained growth and sustainable development are inextricably linked.

For a very long time, the rule of law was considered to be a strictly legal or political matter. But now it is globally recognized that the rule of law is an integral part of economic development; and as *The Economist* put in a 2008 article "...it has become the motherhood and apple pie of development economics." Without the development and application of the rule of law, we cannot create just and rights-based societies. This norm was reinforced by the lessons learnt in the aftermath of Asian financial crisis in the late 1990s, the collapse of the Washington Consensus, and the partial successes of the Millennium Development Goals in many developing countries.

For a long time, the lack of development in a country was associated with geographical, cultural and institutional factors. But now sufficient theoretical literature and empirical evidence exist to endorse the conclusion that the rule of law, supported by strong institutions, directly or indirectly influences economic growth, market vitality and equitable distribution of wealth.

The rule of law is a multidimensional concept, which encompasses protection of individual rights, good

governance, checks and balances in government, transparency and accountability of institutions, security of property, enforcement of contracts, and measures against corruption. In this entire process, equality of opportunity, equitable distribution of national resources, a secure ecosystem, gender equality, inclusion, and political participation must be kept in mind.

The United Nations has not lagged behind in this effort. In fact, it has been in the forefront to mainstream the rule of law as a driver for peace and inclusive development. The United Nations as a whole, the Security Council, ECOSOC, Human Rights Council, UNCITRAL, UNDP, UNICEF, and UNODC, for instance, have done pioneering and seminal work in this field.

Besides, over the years, the International Financial Institutions (IFIs) have supported efforts of national governments to reform their legal sectors.

Member states of the United Nations are bound by their two decisions to make the rule of law a specific goal within the Sustainable Development Goals, and integrate it the post-15 Development Agenda. The first stems directly from the Outcome Document of Rio+20; and the second from the 2012 Declaration of the High-Level Meeting of the General Assembly on the Rule of Law, both postulating sustained and inclusive economic growth and sustainable development on the advancement of the rule of law at the national and international levels.

Three recommendations in the report of the Secretary General's High Level Panel of Eminent Persons for the Post-2015 Development Agenda – *leave no one behind; transform economies for jobs and inclusive growth; and build peace and effective, open and accountable institutions for all* – hinge on the rule of law.

The theme of the eighth session of the Open Working Group – “*Conflict prevention, post-conflict peace-building and the promotion of durable peace, rule of law and governance*” – in my view is couched narrowly to focus on peace as well as conflict and post-conflict situations. My recommendation would be to broaden its scope to include all those countries which, though not riven by conflicts or wars, are still atrophied by abject poverty and anemic institutions and hence remain hamstrung in their efforts to develop their economies because of huge shortfalls in good governance, the rule of law and justice systems.

The norm of the rule of law should be universal covering both conflict and non-conflict situations.

The rationale for defining a goal for the rule of law in the SDS is compelling. But there has to be clarity on the following points, as we strive to get this goal reflected in the post-2015 Development Agenda.

- > The rule of law has to be conceived in the broader context of good governance and the right to development.
- > The body of existing laws should not be seen as sacrosanct. We are looking essentially at three things here: evolution of the rule of law, reform of discriminatory laws and effective application of laws.
- > Institution building is a major priority. Without strong and resilient institutions, we will be merely building sand castles even if we are passing the most robust laws.
- > Instead of a top-down approach, we should bolster a peoples-driven paradigm supported by the grass roots communities.
- > There should be a marked emphasis on *national ownership* and indigenous development of laws. A model, however perfect it may be in one setting, will not work in another.
- > Any goal by definition has to be measurable. This would apply to the goal on rule of law. Indicators for measurement, and the precise criteria and matrices underpinning them, however, should be developed in close consultation with member states.
- > The very purpose of this goal will be defeated if it is used by the international financial institutions or donor countries to condition economic and financial assistance to the countries trying to promote rule of law and simultaneously stimulate economic growth and development.

- > A major effort needs to be made to build capacities and competencies in the developing countries to strengthen the rule of law.
- > New laws to protect environment and deal with climate change should be part of this goal.

As it is evident from the presentation I have just given that Pakistan ardently supports a sharp and, let me add, smart focus on the rule of law in the post-2015 Development Agenda.

The Government of Pakistan, led by Prime Minister Nawaz Sharif, is committed to the rule of law in the country. It is pursuing an ambitious agenda to provide speedy and inexpensive justice, to promote a culture of accountability in the entire system, and to eliminate corruption. This pincer in the overall strategy is supported by the other, equally important, pincer for reducing poverty, creating jobs and accelerating economic development.

The Pakistan Law Commission is being entrusted to review all existing laws to help repeal outdated laws and amend laws in the light of new requirements and developments. Our Parliament is fully seized of the urgency to adapt law-making to the imperatives of inclusive development.

To attack corruption, we are striving to evolve a transparent, rule-based and merit-driven system. Discretionary powers are being gradually pared back to make institutions responsive to the broader objectives of national development.

I thank you.

REMARKS BY AMBASSADOR ANTONIO BERNARDINI DEPUTY SECRETARY-GENERAL, ITALIAN MINISTRY OF FOREIGN AFFAIRS

Let me begin by expressing my appreciation to the Government of Finland for making this event possible and by thanking IDLO - an organization with headquarters in Rome with which we have the privilege of cooperating very closely.

Looking at the issue of the rule of law is intriguing and leads to a number of interesting observations, not only because it is a very important issue in itself, but also because it provides a good lens through which to read how policy issues are discussed at the United Nations.

First of all, I would have expected Ms. Khan to pose to me a similar question to the one she raised with the Permanent Representative of Pakistan and to ask me, as she did Ambassador Khan in relation to developing countries, how the rule of law is relevant for developed countries.

I am saying this because when we discuss issues relating to the post 2015 agenda, we must remember that we should work towards a new agenda that is relevant to all countries, and engages all towards a new sustainable development path.

The concept of the rule of law encompasses many things that are fundamental to the success of the development efforts of developing countries and this is why we are paying so much attention to the linkages between the rule of law and development. But we should not forget that the rule of law is a very important issue for developed countries as well. We made references in this discussion to legality, equality, accountability; to combating corruption, tax evasion, organized crimes; to restoring the credibility of institutions. These are major challenges that are faced by countries at different stages of institutional development and are and remain relevant for all of us. This is, I believe, central to the case for having the rule of law as a main point in the post 2015 discussions.

Preparing for meetings such as these provide an incentive for going back to our papers and reminding ourselves of what has been said before. And I found wonderful language in the 2012 Declaration of the General Assembly on the rule of law, which I think it is worth rereading:

“We agree that our collective response to the challenges and opportunities arising from the many complex political, social and economic transformations before us must be guided by the rule of law, as it is the foundation of friendly and equitable relations between States and the basis on

which just and fair societies are built.” And also: “We recognize that all persons, institutions and entities, public and private, including the State itself, are accountable to just, fair and equitable laws and are entitled without any discrimination to equal protection of the law.”

These statements make me wonder why sometimes we seem to be still in the business of discussing whether the rule of law is important. I would have thought that this question has been settled. There should by now be no doubt that the rule of law is relevant. We must now move on, go a step forward.

It is true that the more you read UN pronouncements, the more you discover ups and downs. If you look at all the resolutions the General Assembly on the rule of law following the 2012 Declaration, you do not find the same kind of strength and inspiration. We must ask ourselves, why is this the case? What are the stumbling blocks?

One of the questions that continue to be a matter of discussion at the UN is that of the national versus the international dimensions of the rule of law. Yet if one moves from UN debates to what is happening in the real world, if one reflects on recent experience, and I want to recall here the tragedy of Lampedusa, one must ask oneself: how many of the people who died in Lampedusa were escaping from countries where the rule of law is merely existent? To what extent can we really distinguish between the situation in individual countries and its effects on the international situation?

The bottom line, as I see it, is that we must now try to go beyond artificial distinctions, and arguments that are largely tactical, but do not capture the core of the issue.

The time has probably come to discuss specifically how we can translate the rule of law in goals and targets. But we should bear in mind that also this kind of apparently technical discussions is sometimes influenced by purely tactical considerations. What is important is to be sure that at the end of the post 2015 negotiating process, we will be able to have a UN manifesto for the post 2015 period that contains all the key elements that we believe are necessary to guide the actions of the international community and of individual countries in achieving rule of law based sustainable development.

This is critical and goes beyond the discussion on rule of law goal yes or rule of law goal not, target yes or target not. What we have to focus on is achieving a clear understanding of what we expect to produce for post 2015, and clarity on the policies that will get us there. Thank you.

REMARKS BY SAKIKO FUKUDA-PARR PROFESSOR OF INTERNATIONAL AFFAIRS, THE NEW SCHOOL

Excellencies, Ladies and Gentlemen,

I am honored to be participating in this event, and thank you for the kind introduction.

I would like to focus my comments the issue of the rule of law in the international context. The topic has not been raised so far this morning, but is a major challenge in the post 2015 agenda and the SDGs.

In particular, I would like to follow up on the points made by Irene Khan about the need to differentiate the principle of “rule of law” from the concept “rule by law”. That distinction is particularly important in the international context. As Irene has made clear, the rule of law is about ensuring that law provides for everyone to have access to justice, that their human rights are realized, and that requires challenging and reforming existing legal frameworks. Issues of equity not only within but between countries, and the inequities that arise from inadequately governed international economic processes are some of the major challenges that we face today. This requires challenging and reforming international legal frameworks, informal norms and institutions.

In the 21st century, countries are not able to control their fates entirely on their own as economies are integrated and events that occur far away over have profound effects on the well being of people within their borders. National governments acting alone cannot secure justice, equity and inclusion. International cooperation is required. Sustainable Development objectives such as reducing poverty, ensuring environmental sustainability, and the realization of the full range of human rights must be priority objectives of international economic governance. But these objectives are often secondary to economic priorities in the design of rules regulating trade, financial flows. And the principles of equity, participation and accountability are not always reflected in the design of international institutions and the processes by which international rules and regulations are agreed. These are issues of global governance that the rule of law needs to rectify.

Because we do not have a global government, and not least a democratically elected global government, there are many gaps in the international rule of law. The international financial crisis of 2008 is a case in point that exemplifies these gaps. Its contagion effect and the recession that ensued had extensive repercussions on the lives of people, set back poverty reduction and the achievement of the

MDGs. It aggravated inequality and exclusion. It had consequences on inequality. There is a great deal to be done to strengthen international economic governance that cannot be excluded from our discussion of the rule of law in the post 2015 agenda and the SDGs.

The point has been acknowledged in many fora. For example the 2005 World Summit outcome document stated that good governance and the rule of law at the national and international levels are essential for sustainable development.

There are multiple other gaps in the global rule of law for sustainable and inclusive development, notably related to the governance of international investments and trade. Investments and trade create prosperity and wealth. They propel dynamic economies that are necessary to improve human well being. But development also creates reversals. There are social costs that are involved with the process of economic growth. Investments often involve dislocating people. Dislocation just a matter of moving house, but a dislocation from a livelihood, and a tearing away from ancestral roots. We also know that investments create pollution and environmental damage. That too has consequences for human lives in terms of health and well-being. These issues became very apparent to me over the last two years that I have been working as a member of the Commission on Global Governance for Health (University of Oslo/ Lancet Commission on Global Governance for Health). We concluded that the causes of health inequity are not biological or medical, but are often rooted in social and political processes at the global level. We identified numerous global social and political origins of health inequity which require attention for international governance and the rule of law.

For example, health inequities arise from the consequences of environmental pollution that are often attributable to actions of multinational corporations which can escape accountability due to ambiguities in applications of national legal regimes and because of they outsize many national governments in economic power. They also arise from asymmetries in access to medications that is restricted by rules of intellectual property embedded in an international trade agreement (the TRIPS agreement). The purpose of inclusive governance is to make sure that these social costs and negative consequences are reined in and addressed. These are issues that need to be addressed in the post-2015 agenda for sustainable and inclusive development.

The UN Committee on Development Policy (of which I am member), has taken up the issue of global governance and the post 2015 agenda as a special research project. We have been looking at reforms that are necessary in the international financial architecture, capital mobility, international trade, labor mobility and environment and other issues that we have mentioned earlier like tax evasion and corruption at the international scale.

I would like to remind ourselves here that a major function of the UN is to develop norms of international cooperation. We have an ethical basis for this exercise and that is the human rights legal framework. Others here in this room have more expertise in international human rights law since I am a development economist and not a lawyer. But I have been studying human rights quite a lot in recent years particularly in the context of my work as a member of the High Level Task Force on the Right to Development. Many human rights are central to the poverty agenda such as the right to health, education, housing, social security and decent work. Human rights law imposes correlate obligations for the realization of these rights to states. Starting in 1949 the Universal Declaration of Human Rights recognized that States had an obligation for international assistance and cooperation in the realization of all human rights – civil, political, economic, social and cultural. This principle has been affirmed in the International Covenant on the Economic, Social and Cultural Rights and further elaborated on legal documents related to that Convention, particularly on General Comment number 3. What I want to emphasize here is that these obligations are not just for provisions of financial support such as development aid, but require states to facilitate the realization of human rights. The wording is quite explicit; article 28 of the Universal Declaration states: “everyone is entitled to a social and international order in which the right to freedom set forth and the Declaration can be realized”.

Human rights obligations for international cooperation are not just to provide development aid, but more broadly to create an enabling environment for development. This includes ensuring that the design of global rules – trade for example – fosters an economy that facilitate inclusive and

sustainable development and the realization of human rights. For example, the objective is to foster an economy capable of generating employment with decent jobs, maintains a stable financial market, or a trading system that is equitable. It is the responsibility of nation states to manage the economy, but there are some challenges that countries cannot address on their own. It is not only financial resources that constrain countries. There are challenges like finding a vaccine for HIV/AIDS that not even the technologically and financially advanced countries can attempt on their own, but that requires an internationally collaborative scientific endeavor. Ensuring the stability of financial markets would be another example. The Declaration on the Right to Development – which has already been mentioned several times in the discussions of the Open Working Group – is particularly relevant and helpful here. It articulates what is meant by ‘development’ as a constant improvement in the well being of individuals, through a process that is participatory and socially just. It takes the UDHR and the ICESCR further in elaborating on the nature of international obligations, making it clear that states have a duty to act collectively to promote development.

The rule of law cannot be dissociated from the principles and norms of international human rights, and the objectives of poverty reduction, and governance. Yet as I follow the debates on Sustainable Development Goals and the Post-2015 agenda, I sense that issues are being compartmentalized and disconnected and the rule of law is being discussed as an instrumental tool for implementing sustainable development and disconnected from the principles of human rights and good governance.

In a world of an integrated global economy, sustainable and inclusive development requires joint cooperative action by states. I consider law and public policies as two legs of global governance that create an enabling environment for people to thrive and realize their rights.

Thank you for your attention.

REMARKS BY GEORGE GRAY-MOLINA CHIEF ECONOMIST, REGIONAL BUREAU FOR LATIN AMERICA AND THE CARIBBEAN, UNDP

Many thanks. I'm delighted to be here on behalf of Heraldo Munoz, Regional Director for the Regional Bureau on Latin America and the Caribbean at UNDP.

I would like to focus my remarks on two issues:

First, share some examples on how rule of law issues cut through both the process and outcomes of social inclusion, poverty and inequality reduction in Latin America, and

Second, emphasize points made by my colleagues at the Rule of Law programme at UNDP, and reiterated by Administrator Helen Clark, on how to think about rule of law in the post-2015 context.

Let me start with Latin America. The region has gone through a tremendous process of social change in recent years; 67 million people left the ranks of the poor since 2002; 16 of 17 countries saw a decline in their income inequality, and millions joined the ranks of new middle classes, which themselves are redefining the very meaning of progress and development in the region.

While there is still much to do, a lot of the region's progress was mediated through deliberate social policies, and behind these policies, a firm commitment to include, empower and give voice to excluded groups of citizens through the rule of law.

What have learnt from the social inclusion process? A couple of things.

First, that inequalities, even chronic and entrenched ones, can decline with proactive states and inclusive markets. The Latin American achievements on income inequality can be traced to 3 drivers.

First, most of the decline in inequality in Latin America was due to dynamic labor markets that increased the number of women and youth in the formal labor force; these were not laissez faire markets, but inclusive markets that led to improved real wages in service sectors, and the inclusion of new labor entrants in the millions.

A second equalizing driver were social transfers. Conditional and non-conditional cash transfers helped keep children in school, guarantee medical check-ups and also supplement poor household's income in volatile times.

Finally, we have learnt that demographic change, boosted by changes in female education and fertility and labor market choices –have made a big difference. The region has a low dependency rate, a demographic dividend, not as an act of nature, but because there were deliberate policies to include.

Second, and beyond income inequality, there are other dimensions of social inclusion that empower, recognize and provide voice to citizens. How does rule of law relate to this process of social inclusion? Let me touch briefly on three specific examples.

Gender quotas in electoral laws: Over the past decade, 14 countries in Latin America adopted explicit gender quotas, reforming electoral laws, to improve women's political participation. While LAC is still far from gender parity, the adoption of explicit quotas helped to move the percentage of women in parliaments from the low teens to an average 24% in the region (with some countries, like Argentina, Nicaragua, Ecuador or Costa Rica reaching levels of 37% to 40%). This would be unthinkable without provisions that deliberately aim at breaking through the 30% threshold.

Citizen Security: UNDP's Regional Bureau for Latin America and the Caribbean just published a Human Development Report that focuses on more comprehensive and holistic approaches to citizen security. The best examples of citizen security emerge at the local level, where there are no silver bullets, but conditions that improve because a new balance between state and society is built. For societies with long legacies of state absence these are not trivial nor strictly technical issues. They involve the legitimacy of the state, the faith in a fair process and the willingness to play by rules that are common to all citizens. We have seen this process develop in Colombia, in Brazil, in Nicaragua and in El Salvador where the return of the bureaucratic, legal and legitimate dimensions of the state were pre-requisites for other positive development outcomes.

Constitutional reforms that recognize ethnic and multi-national diversity: Not all pathways to the rule of law are based on northern-European models of legality. Latin America has experimented over the past decade with numerous constitutional reforms that adapt the aspirations of modernizing societies with the demands of cultural, ethnic and multi-national diversity –nowhere more evident than in the recognition of group rights for indigenous peoples and nations in Bolivia, Ecuador, Colombia, Mexico,

Paraguay and Brazil, among others. The UN Declaration on the Rights of Indigenous Peoples adopted by the General Assembly in 2007 is part of this process.

So let me move briefly to the second question: how to link the rule of law to the emerging framework on the post 2015 development agenda? I recommend an excellent brief prepared by my colleagues working on Rule of Law & Access to Justice at the Democratic Governance Practice Area at UNDP.

They lay out three options that are not mutually exclusive:

First, to consider the possibility of adopting a specific rule-of-law goal and targets that include a flexible basket of indicators tailored to country context. Think of a goal related to citizen security that involves reducing violent crime by a certain percentage, but allows countries to define the type of crime that is most salient in its context.

Second, in the absence of a primary development goal on the rule of law, it could be adopted as a higher-level “enabling” goal. For example a post 2015 goal on poverty might be accompanied by a higher level goal on rule-of-law enablers of poverty reduction: encouraging citizen

participation, access to information or non-discrimination in the process of poverty reduction.

From a more general perspective, the idea of an enabling goals fits well with a vision that sees development as full of overlapping dimensions that correlate with each other and do not fit neatly into silos or boxes: some targets could easily fit into 2 or 3 goals on education, health or poverty reduction. The Colombian proposal on a “post 2015 variable geometry” fits well with this spirit.

Third, the rule of law could be incorporated across development goals. A goal on health for example could have targets on legal access to services, and mechanisms to enforce rights, and so on. The drawback of a cross-cutting mechanism is that it might dilute some of the substantive contributions of this dimension in the larger development process.

I'll stop here, again, flagging the importance of linking fair processes with fair outcomes. I hope we have an opportunity to provide more details in the Question and Answer Session.

Thank you.

REMARKS BY AMBASSADOR ERTUĞRUL APAKAN FORMER PERMANENT REPRESENTATIVE OF TURKEY TO THE UNITED NATIONS

H.E. Jan Eliasson, Deputy Secretary-General of the United Nations,

H.E. Jarmo Viinanen, Permanent Representative of Finland,

Ms. Irene Khan, Director General, IDLO,

Excellencies and Dear Colleagues,

It gives me a distinct pleasure to be with friends again. I always keep fond memories working together with the colleagues in the UN. I believe that today's subject on the Rule of Law and Development Opportunities presents us a unique opportunity to lay out the ground and assess the state of play of the integration of the rule of law in post-2015 development agenda.

Distinguished panelists who spoke before me have already mentioned different aspects of the rule of law and development, and brought our attention to how the rule of law can make contribution to tackling many of the issues likely to be at the core of the new development framework. Peace, rule of law and governance are interrelated building blocks for sustainable development.

Having said that, I also would like to touch upon several issues in that respect.

The theme of today's debate is one of the main pillars of the national and international order that we all adhered to uphold in our relations. The rule of law is a multifaceted and crosscutting issue which needs to be taken into account not only in conjunction with international relations but also in domestic governance.

In fact, the Declaration adopted on 24 September 2012 at the High Level meeting of the General Assembly reaffirmed the commitment to the rule of law as an indispensable foundation for a more peaceful, prosperous and just world, and stressed the interrelationship between the rule of law and the three pillars of the UN- Peace and Security, Human Rights and Development.

I continue to believe that an international order based on the rule of law is essential for peaceful coexistence and cooperation among States. While the concept of threat to peace and security changed in time with the emergence of new asymmetric threats, acceptance of relevance of rule of law and human rights in international relations and international law has grown.

I believe that, United Nations' rule of law initiatives as a whole are indispensable to international peace and security. In conflict and post-conflict settings, the United Nations has much to offer to those countries in establishing the rule of law by ensuring accountability and reinforcing norms, building confidence in justice and security institutions, and promoting gender equality.

At a time when we are witnessing drastic changes in the Middle East, North Africa and elsewhere, people's demand for greater accountability, transparency, justice and the rule of law is the driving force of these political changes. Recent waves of protests in poor and developing world have illustrated the inextricable links between demands for the rule of law, transparency, economic opportunity in the face of inequality, high employment and corruption. This is also valid for middle-income countries. It is also a playing field for preventing and addressing ethnic and sectarian conflicts.

There is growing awareness that the successful promotion of the rule of law requires more active coordination between the United Nations, Member States and national stakeholders. The success of the efforts to promote the rule of law at the international level depends on ensuring strict compliance by States with generally accepted rules and principles, particularly those embodied in the Charter of the United Nations, and those arising from obligations under multilateral treaties and international law in general.

There is no doubt that adherence to international law and the rule of law are inextricably intertwined and compliance to them constitutes one of the core missions of the United Nations.

There can be no Rule of Law unless there is access to the basic sources of law. The Rule of Law cannot exist without a transparent legal system, the main components of which are a clear set of laws that are freely and easily accessible to all, strong enforcement structures, and an independent judiciary to protect citizens against the arbitrary use of power by the state, individuals or any other organization.

In a society not adequately governed by the Rule of Law, human beings will be traded as goods. The gross and unjust economic exploitation of vulnerable people, especially women and children through trafficking, is a direct consequence of the absence of the Rule of Law.

The Rule of Law can generate economic reform and unlock the social, political and economic potential that exists in societies. It is evident that deep-rooted economic

development can only occur in societies where the Rule of Law exists. Robust economies are dependent upon the existence of clear laws that govern societies and commerce, and a strong, independent judiciary to impartially enforce laws and contracts so that citizens, institutions and foreign investors can risk capital and trust that risk is protected from arbitrary forces. The Rule of Law thus enables people and institutions to fulfill their aspirations individually and collectively. The rule of law can play both as a catalyst and an outcome of development.

Democracy, good governance and the rule of law go hand in hand. One cannot exist without another. Sustainable development, economic growth, environmental protection and eradication of poverty and hunger can only flourish if these three invaluable assets become the backbone of a fabric of a society.

In this context, I should also stress that the proper functioning of rule of law is as much a normative matter as an institutional or a procedural one. Legal education and the rule of law have undeniable link. Lawyers are the principal representatives of the rule of law, and the law schools regulate admission into profession. Legal institutions must remain stable so that public faith in the rule of law is upheld. We must have a clearer understanding of what the law schools are trying to accomplish. They must maintain their present strengths while building for the future. I also believe that, the rule of law should be part of regular curriculum at schools. That is how we can create public awareness and everyone, every segment of the society will respect for it

and consider itself bound with this very basic norm. We have to bridge the gap between the academia and the rule of law practitioners. More academic and interdisciplinary work is needed.

Before concluding, I should refer to the UNDP Brief on “Rule of Law and Development” of April 2013 which sets out the following options for incorporating the rule of law into the post-2015 agenda:

- i) Define a stand-alone goal and targets with a flexible basket of indicators that can be tailored to country specifics.
- ii) Adopt the rule of law as a high level ‘enabling goal’.
- iii) Incorporate the rule of law across development goals.”

I fully share this approach. This will be helpful in finding out a sharp and smart focus (Irene Khan and Ambassador Masood Khan on the part of G-77).

I believe that only natural conclusion that can be derived from today’s discussion is that the Rule of Law is inalienable part of post-2015 development framework. We have to find a calibrated approach to ensure its proper inclusion in the post-2015 development agenda with an aim to achieve greater inclusiveness and sustainability of development process.

Thank you.

ANNEX 1

For additional information related to the event, please click on the links below.

For the photo gallery, please click on our Flickr page: <http://www.flickr.com/photos/idlo/sets/72157639966298956/>

For the social media summary, please click on our Storify page:
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For the recording of the event, please click on the UN webcast page:
<http://webtv.un.org/search/the-rule-of-law-as-a-driver-on-inclusive-development-opportunities-roundtable/3067731586001?term=rule%20of%20law>

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