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66th session of the General Assembly
6th Committee

The rule of law at the national and international levels

Swiss Statement

presented by
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New York, 5 October 2011

Mr. Chairman,

Transitional justice is a timely and crucial issue. In the aftermath of massive violations of human rights or international humanitarian law, a whole series of measures needs to be taken to strengthen the rule of law and avoid a recurrence of such violations. Switzerland therefore welcomes the debate within the 6th Committee on the rule of law and the attention devoted to the issue of transitional justice. We would like to make the following suggestions concerning next steps to be undertaken.

First of all, the report of the Secretary-General's on the rule of law rightly highlights positive developments in the area of international justice over the last decades. We are encouraged by examples of operational cooperation on the part of the United Nations system to establish the rule of law, particularly in fragile and post-conflict situations. Nonetheless, Switzerland is of the opinion that further efforts need to be made and that these efforts should follow a comprehensive approach. The capacity of the United Nations system to respond jointly needs to be improved. In this respect, we support Recommendations 76 a and b of the Secretary-General's report.

To strengthen synergies within the United Nations and meet unfulfilled needs, both institutionally and in the field, Switzerland, with Argentina and Morocco, presented a resolution calling for the appointment of a special rapporteur on the promotion of truth, justice, reparations and guarantees of non-recurrence. We are delighted that this resolution was adopted by consensus on 29 September with the support of some 80 co-sponsors from all regional groups. The task of the special rapporteur, cooperating closely with all UN actors, will be to gather relevant information, as well as identify good practice and lessons learned, with a view to improving the implementation of strategies combining the four pillars of the struggle against impunity – truth, justice, reparations and guarantees of non-recurrence – and making appropriate recommendations. His or her role will also involve supporting States in fulfilling their obligations following serious human rights violations, and in developing consistent strategies, by making recommendations and by providing advice and technical assistance.

Switzerland also warmly welcomes the joint declaration of the Human Security Network, comprised of Austria, Chile, Costa Rica, Greece, Ireland, Jordan, Mali, Norway, Slovenia, Thailand, South Africa as an observer, and my own country, Switzerland, on the promotion of truth, justice, reparations and guarantees of non-recurrence, dated 28 September 2011. The declaration equally emphasizes the need for a comprehensive approach to transitional justice initiatives. It encourages that an ongoing priority be given to the full range of transitional justice processes in the forthcoming high-level debate on the rule of law in 2012. And it recognizes the need to promote cross-regional cooperation within United Nations bodies and mechanisms to deal with gross human rights violations and serious violations of international humanitarian law.

Mr. Chairman,

The importance of transitional justice and the four pillars of the struggle against impunity – truth, justice, reparations and guarantees of non-recurrence – are emphasized by the conclusions of a recent report from the World Bank, entitled “Conflict, Security and Development”. This report points to connections between conflict, impunity and the undermining of governance structures, and between economics, development and the rule of law. Although the Secretary-General’s report refers to the importance of developing mechanisms to implement international law, we are bound to note that the efforts of the United Nations remain at times random and sometimes even inconsistent. This being the case, we very warmly welcome the SG’s forthcoming report on “legal empowerment and poverty reduction”, and the inclusion of the struggle against impunity and the issue of transitional justice in the joint strategic plan for 2012-2014.

Switzerland recommends that special attention be paid to the conclusions of the World Bank’s report on the occasion of the high-level debate on the rule of law in 2012, for example in the context of a “thematic round table”, with the main emphasis on national and regional experience in this area. This would be very much in line with Recommendation 77 of the Secretary-General’s report. Incidentally, the new special rapporteur on the promotion of truth, justice, reparations and guarantees of non-recurrence should be in a position to submit an initial report to the General Assembly in the autumn of 2012.

Switzerland also recommends that the high-level debate on the rule of law in 2012 include a discussion of the rule of law, transitional justice and the policy of complementarity. We believe this would give us a better understanding of how the capacity for resilience of societies can be better supported, leading us towards a real global partnership in favour of the rule of law.

Mr. Chairman,

We believe that the United Nations is the right place to conduct a debate on the rule of law and transitional justice. To make the best possible use of the capacity for resilience of societies that have undergone profound crises and conflicts, we would suggest that a special effort be made to collect good practices and the countless lessons learned, at the national and regional levels, that help to strengthen the rule of law, security and sustainable development. We are convinced that this would enable us to capitalize on the wisdom acquired by the international community on how to strengthen the rule of law.

Thank you