

Excellencies, Honorables, members of PGA, dear colleagues,

I am honoured and pleased to be part of this interesting and important conference on the rule of law and judicial systems in the consolidation of peace. This meeting is hosted by the National Assembly of the Central African Republic so as a Parliamentarian I feel that we are amongst friends and colleagues. Coming from the Netherlands, a country that has an article in its constitution to improve international law and justice, I feel at home in this debate. My government, our Parliament is obliged to assist any country that is trying to find its way to justice. Please try and understand my contribution in that context.

Let me begin by saying that although there is growing focus on rule of law in post-conflict countries, there is little guidance on how to approach such rule of law reform. It has been recognized that the field of rule of law is an area of international development assistance that has often been piecemeal and donor-driven, resulting in contradictory development of justice and security institutions and short-term gains at the cost of longer-term, sustainable reform. By way of example – some observers have noted that certain countries aiding developing countries are trying to export their national legal systems to the recipient country – This phenomenon of “legal colonialism” may be dangerous and counterproductive, even if done with the best intentions.

The collapse of the legal system and a serious breakdown of law and order in the post-conflict environment have encouraged crisis style responses and ad hoc reactive projects with little attention to longer term planning and capacity building. This happened without addressing the lack of physical security but also the lack of legal structure for economic development and political accountability. Short-term reforms, like rebuilding infrastructures or buying computers that are readily identifiable marks of progress, are often favoured over long-term strategies and capacity building.

My country, the Netherlands, has experienced this also. In Afghanistan, December 2006, we started the so called quick visible projects. The basis of this is the acknowledge that reconstruction is a long haul. To bring about visible, rapid improvements to the quality of life of the people of Uruzgan, the embassy in Kabul had concluded some 200 contracts with Afghan non-governmental organisations, mainly to repair roads and irrigation canals. Mosques have also been restored, tractors and school buses repaired and computers (including training) supplied to provincial authorities. The Dutch ISAF troops built up an extensive network with both the local people and the local authorities. A special Uruzgan facility has been set up with Dutch money to fund larger investments in health care, farming and rural development. Both the people and local government have an important voice in choosing and implementing these projects. But real reconstruction is a long haul. As the Dutch advisor for development cooperation in Uruzgan puts it: Reconstruction after a conflict is like restoring a beautiful old building. First you have to sand every surface, then put on the first coat of paint. Only after that can you apply the final coat. If you don't do that, the paint will start to flake, and you have to start all over again. This is only an example of how things go in practice. It is also an example of one of the reasons why rule of law programs implemented in peacebuilding operations have not always necessarily answered local citizens' demands for justice.

We must recall that weaknesses in the institutions upholding the rule of law and impunity for the most serious crimes are often root causes of violent conflicts, in Africa and beyond: A culture of impunity for leaders and armed forces has provided an incentive for the proliferation of armed groups, private armies and militias, like the one that Mr. Bemba allegedly used in CAR. Indeed, continued insecurity, and a culture of impunity for past and continuing serious crimes and violations of human rights, directly threatens the reestablishment of security and the pursuit of justice and reconciliation.

Therefore, it is essential to reassess the role of the Rule of Law and the Justice System when undertaking peacebuilding efforts. Indeed, restoring the rule of law will be meaningful only if it is synonymous with justice

and with protecting the rights and dignity of citizens and all the other individuals so that they can live safe from humiliation and fear, providing therefore a substantial foundation for consolidating a just peace.

Justice, peace and democracy are not exclusive objectives, but rather mutually reinforcing imperatives. To reach those three imperatives in fragile post-conflict settings, strategic planning, careful integration and sensible sequencing of activities is required even if sequencing must be understood as a synonymous of “postponing justice”. Justice delayed is not always justice denied.

Approaches focusing only on one or another institution, or ignoring civil society or victims, especially women and children, will not be effective. Without local ownership, rule of law activities are unlikely to achieve their goals. International efforts have sometimes focused too much on re-establishing police services, while paying too little attention to other justice sector components, such as legislative work, crime prevention, judicial capacities, legal training, prison reform, victim protection and support as well as civil society support. However all of these elements are essential to the rule of law and all are interdependent. Neglecting one of them would inevitably weaken the others.

The focus on formal institutions or only on certain aspects of the justice sector has often resulted in hollow institutions, unenforced and poorly understood legislation, and judges and police with little commitment to the rights and values embedded in the reform. There is a real need for societal changes to create a professional committed bureaucracy and change the political culture, which will only be possible by involving large segments of society and through extensive education and sensitivity campaigns as well as dialogue and consensus building within the society.

Indeed, building social cohesion and restoring confidence between communities, the state and security actors need to underpin all Rule of Law programming. Thus, to move forward and push for adequate Justice, Rule of Law and Fight against Impunity programs as well as coherence and a shared strategic vision of rule of law activities, we need urgent responses from the Experts representing the Donors' Community and the Recipient State regarding the following issues:

- A) What is the percentage of donors' aid that goes into the Rule of Law and strengthening Justice and Accountability?
- B) What is the percentage of the National Budget of CAR that goes into the Justice system?
- C) Is there a national plan for Justice and the Rule of Law, or is there a National Plan on Human Rights that comprehend such a Plan?

The success of a rule of law program will depend greatly on adequate financial support and national budget planning. The budget allocated to the justice system, for example the salaries of the judges, needs to be significant in order to fight corruption and to enable the necessary independence of the judiciary. Moreover, the lack of evaluation and monitoring of rule of law programs undermines our ability to develop strategies and programs that take into account potential strengths and weaknesses of previous experiences.

As Politicians and Decision-Makers, we, Parliamentarians, need to access clear data, statistics and also best practices and lessons-learned from past experiences, including negative ones. The International Community seems allergic to the notion of failures, while success stories are repeated again and again in international meetings and conferences. Only then, we will be able to fight for the allocation (or reallocation) of adequate resources and capacities in support of Justice and the Rule of Law. Indeed, as the 2008 Report of the UN Secretary-General on Rule of Law states, there is no dedicated donor coordination structure and a poor understanding of the scale and impact of contributions.

It is crucial to realise that, done properly, rule-of-law reform will take years and require significant funding, but much less than military or security operations. Therefore, money spent on rule of law reform often is money well spent.

If our goal is sustainable, long-term peace, we cannot allow impunity and injustice to alter and "pollute" an instable society . We need peace among our communities and groups, and how can our citizens tolerate that their past tormentors and torturers would walk free in the same street where they walk? Only when an appropriate process of justice and accountability will have satisfied the right of victims to access to justice, know the truth and have it officially acknowledged, then we will have the ability to walk and live in a truly peaceful society.

The fight against impunity is not an obstacle to reconciliation nor is the establishment of the truth which must be at the core of any reconstruction, reconciliation and forgiveness initiative and is a key element in the pursuit of justice.

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