

“Uniting for the rule of law”
Statement by Foreign Minister Yoshimasa HAYASHI
at the Open Debate of the UN Security Council
on "Rule of Law among Nations" 12 January 2023

Distinguished Ministers, dear colleagues of the Security Council,
fellow members of the United Nations,

I thank you all for your participation today. I also thank Secretary-General António Guterres, President Joan Donoghue of the International Court of Justice, and Professor Dapo Akande of the University of Oxford for their informative and insightful briefings.

1. Why discuss the rule of law among nations now?

Distinguished colleagues,

We live in a world that needs the Security Council more than ever. Today we are beset by the war of aggression in Europe, and conflicts, violence, terrorism, and geopolitical tensions ranging from Africa to the Middle East to Latin America to the Asia-Pacific. These situations are further complicated by energy and food crises, fragile supply chains, climate change, and global health challenges. Faced with all of these complex problems, the expectation this Council has to live up to is much higher than before. And yet we sometimes hear voices questioning the relevance of the Council.

The distinguished Permanent Representative of Kenya once said in this Chamber, I quote, "multilateralism lies on its death bed," unquote. However, we should not let it die. Let us remind ourselves that this is not the first time we have been divided. Every previous time, we managed to find the path to overcome these divisions. We have accumulated wisdom that still resonates with us today. That is the significance of the rule of law among nations.

All Member States, large or small, can be free from the fear of brute force under the rule of law, but not under rule by force. The maintenance of international peace and security, which the Charter stipulates in its very first article, cannot be achieved unless international law is respected and implemented in good faith.

This is the belief that brought me here today to listen to the voices of Member States. I believe that the rule of law is intrinsically linked with the responsibility of this Council. I believe that it is only through multilateralism that we can uphold the rule of law globally. I believe that the United Nations should be at the core of multilateralism. And, I believe that the Security Council should be the guardian of multilateralism.

2. “Uniting for the rule of law” under 3 pillars

Distinguished colleagues,

Allow me to make a call here. Let us unite ourselves, once again, around the principle of the rule of law. "Uniting for the rule of law" must be the keyword for us.

The rule of law among nations is a universal concept. It is not about choosing camps. It is not about taking the middle ground between opposing camps. It is about returning to the unshakable principles that the Member States have built upon since 1945.

We can draw such principles, first and foremost, from the UN Charter. We can also turn to the landmark Declaration of the General Assembly in 1970 on Principles of Friendly Relations, and the 2012 General Assembly Rule of Law Resolution adopted by our Heads of States and Governments.

From those fundamental documents, we can focus on the following three points as essential elements of the rule of law among nations.

First, the rule of law should be anchored in trust among nations. If agreements are not observed in good faith, then the rule of law does not exist and the world becomes a jungle of brute force and coercion. The same applies to the UN Charter, resolutions of the United Nations, judgments, and awards by international tribunals. They are not just pieces of waste paper. They must be implemented in good faith.

The General Assembly resolution entitled "Aggression against Ukraine" adopted on the 2nd of March 2022 reflects the voices of the UN Member States seriously alarmed by the lack of good faith in observing rules of international law. Furthermore, the ICJ order on provisional measures of the 16th of March 2022 must be implemented immediately, which includes the immediate, complete and unconditional withdrawal of Russia's military forces from Ukraine.

Second, the rule of law never allows any country to rewrite borders by force or through the flexing of muscles. This applies to any coercion, including deployment of armed personnel beyond internationally recognized borders or to territory under the peaceful administration of another State to create a *fait accompli*. By no means can such actions be justified through arbitrary interpretations of the Charter and international law, including the right of self-defense.

Third, we, the Member States, should unite for the rule of law and cooperate with each other to stand up against violations of the Charter, such as aggression against, or the acquisition of territory by force from, a Member State. Japan welcomes the efforts by Member States in this regard, and calls for further actions to end the aggression against Ukraine. Let us refrain from recognizing territorial acquisitions by force or supporting aggression directly or indirectly.

3. Support the strengthening of the "rule of law" in developing and fragile states

Distinguished colleagues,

The rule of law is strongly interrelated with national governance and development. They are mutually reinforcing. The rule of law leads to greater predictability, transparency, and fairness in society, which in turn serves as the foundation of economic development and human security. This, in return, helps to strengthen the rule of law.

Japan is a proud supporter, when requested, of national efforts to build legal institutions and develop human resources around the world. I hope that Japan's assistance has been helpful in the ASEAN countries, Bangladesh, Sri Lanka, Mongolia, Kenya, and Cote d'Ivoire, just to name a few. Japan will continue to work together hand-in-hand with other States to let the rule of law permeate at the national and international level.

4. Strengthening Multilateralism to Underpin the Rule of Law

Distinguished colleagues,

Confidence in the UN is now eroding. But as Dag Hammarskjöld once said, I quote, "We need the UN as a foundation and a framework for arduous and time-consuming attempts to find norms in which an extra-national—or perhaps even supranational—influence may be brought to bear in the prevention of future conflicts." Unquote. No other organization can or should replace the UN. We need to enhance the functions of the whole UN as the bulwark of multilateralism and the rule of law. This includes strengthening the roles of the General Assembly, the Secretary-General, and other organs.

The most pressing aspect of this effort is Security Council reform. The Council should be enlarged in both permanent and non-permanent categories to better reflect the realities of the current world, not that of 78 years ago. This is especially true for Africa.

The ICJ is the final gatekeeper of the rule of law and we should reinforce its role. I call upon all States who have not yet done so to accept the compulsory jurisdiction of the ICJ.

5. Conclusion

Distinguished colleagues,

I hope that today's open debate can be an opportunity for Member States to share concrete ideas and proposals to strengthen the rule of law. I look forward to a vibrant discussion.

I thank you.