

**Bangkok Dialogue on the Rule of Law:  
Investing in the Rule of Law, Justice and Security  
for the Post-2015 Development Agenda  
Bangkok, 15 November 2013  
\*Summary Report\*  
Thailand Institute of Justice  
(28 November 2013)**

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**“Gyalpoi cheypa bang  
Bang-gi rewa deki  
Deki-gi tsawa thrim”**

**“A king loves his people  
His people desire happiness  
The source of all happiness is the rule of law”**

**--Tshering Tobgay, Prime Minister of the Kingdom of Bhutan--**

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## **Introduction**

There is an increasing acknowledgement that the rule of law is a prerequisite to inclusive economic growth and stability for States and their respective regions. Equitable and predictable forms of justice are a fundamental requirement for sustainable development. This interrelationship was highlighted during the Rio +20 Conference on Sustainable Development, and embedded in the Declaration of the High-Level Meeting of the General Assembly on the Rule of Law at the National and International Levels. The international community must therefore be encouraged to include the rule of law, justice and security among its main goals and targets in the post-2015 development agenda.

Over the past years, Thailand has led efforts for the adoption of the United Nations Rules for the Treatment of Female Prisoners (the Bangkok Rules), and drafted the resolution on The need for the rule of law, crime prevention and criminal justice in the development agenda beyond 2015. Therefore, by organizing The Bangkok Dialogue on the Rule of Law, Thailand is creating high-level political momentum for the deliberations on the post- 2015 development agenda, and is seeking to promote investing effectively in the rule of law, justice and security to accelerate sustainable development.

### **1. Opening Session: Bangkok Dialogue on the Rule of Law**

The “Bangkok Dialogue on the Rule of Law: Investing in the Rule of Law for the Post-2015 Development Agenda” was held in Bangkok on 15 November 2015, at the initiation of Her Royal Highness Princess Bajrakitiyabha Mahidol and at the invitation of the Royal Thai Government and the Thailand Institute of Justice. The event brought together world leaders and global experts convinced of the importance of promoting the rule of

law, justice and security as indispensable means to achieve sustainable economic and social development, the eradication of poverty and hunger, and the fostering of stable and peaceful societies.

The Prime Minister of Thailand, Ms. Yingluck Shinawatra, noted that the Royal Thai Government fully supports mainstreaming the rule of law into the post-2015 development agenda. The Bangkok Dialogue should help achieve this goal and Thailand's constructive role to that end. The Minister of Justice of Thailand, Mr. Chaikasem Nitisiri, stressed the need for the public sector to continue to respect the sanctity of the rule of law, while the Deputy Prime Minister and Minister of Foreign Affairs of Thailand, Mr. Surapong Tovichakchaikul emphasized the timeliness of the Bangkok Dialogue, as the international community is currently involved in setting the post-2015 development agenda.

Her Royal Highness, Princess Bajrakitiyabha Mahidol, expressed her belief that development requires the rule of law, crime prevention and criminal justice to be sustainable. She pointed out that "Large segments of the population are still barred from accessing justice and face exclusion or discrimination. Transnational organized crime and conflict are impeding development efforts around the world. Corruption and lack of government accountability are hampering economic progress in numerous countries. Women and girls continue to be exposed to unacceptable levels of violence and unfair treatment. In many of these examples, gaps in the justice system and an ineffective rule of law are at the heart of the problem."

The Secretary-General of the United Nations, Mr. Ban Ki-moon, observed in his statement that the rule of law is the bedrock of justice and human rights, the foundation for all development goals. He further emphasized that the rule of law and development are mutually reinforcing, and that there is a growing international consensus of the need to work together for a world in which everyone can enjoy the rule of law, accountability and transparency.

The Prime Minister of Bhutan, Mr. Tshering Tobgay, explained that Gross National Happiness is based on several pillars, most notably good governance, and that the essence of good governance is the rule of law. To solve those problems that hamper progress, such as poverty, marginalization and inequality, the post-2015 development agenda should take ownership of the rule of law. Bhutan is therefore supporting the global community efforts to invest seriously and adequately in the rule of law in the post-2015 development agenda.

The Minister of Foreign Affairs of Indonesia, Mr. R.M. Marty M. Natalegawa, representing the President of Indonesia, Mr. Susilo Bambang Yudhoyono, pointed out that security, freedom from conflict and access to justice are not only part of development outcomes but serve as enablers as well. The absence of the rule of law, justice and security therefore affects a country's ability to meet its development targets. These are crosscutting and essential elements that should be included in the post-2015 development agenda, and Indonesia stands ready to forge a global partnership to achieve that goal.

The Executive Director of the United Nations Office on Drugs and Crime (UNODC), Mr. Yuri Fedotov, emphasized that combating transnational organized crime and promoting the rule of law are an essential and integrated part of development efforts and goes to the heart of the work of the UNODC. He asserted that effective and humane justice sys-

tems are fundamental to development and prosperity, and therefore directly related to the post-2015 development agenda.

## 2. The Need for the Rule of Law in the Post-2015 Development Agenda

First session:

- Former President of Timor Leste, Mr. Jose Ramos Horta
- Attorney-General of the Union of Myanmar, Mr. Tun Shin
- Vice-Minister of Justice of Japan, Mr. Katsuyuki Nishikawa
- Parliamentary Secretary to the Prime Minister of Australia, Mr. Josh Frydenberg
- Deputy-Secretary General of the United Nations, Mr. Jan Eliasson
- The United Nations High Commissioner for Human Rights, Ms. Navanethem Pillay
  
- Moderator: Mr. Michael Vatikiotis, Regional Director Centre for Humanitarian Development

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The participants recalled that the United Nations Millennium Development Goals (MDGs) sought the eradication of extreme poverty and hunger; the achievement of universal primary education; the promotion of gender equality and the empowerment of women; the reduction of child mortality; the improvement of maternal health; the combating of HIV/AIDS; malaria and other diseases; ensuring environmental sustainability, and; developing a global partnership for development. The participants noted significant achievements in working in line towards these MDGs.

However, while significant progress has been made within the framework of the MDGs, the process continues to be endangered by recurring and sustained conflict, the degradation of the environment, the depletion of natural resources and the volatility in societies. Despite the many successes of the MDGs, 1.2 billion persons still live in extreme poverty; hundreds of millions continue go hungry, and tens of millions children are not yet able to attend primary school. Many of the obstacles to reaching the MDGs can frequently be traced back directly to weaknesses in the rule of law.

## 3. The Interrelationship between the Rule of Law and Sustainable Development

Second Session:

- Former Foreign Minister of Australia, Dr. Gareth Evans
- Former Deputy Prime Minister and Foreign Minister of Thailand, Dr. Surakiart Sathirathai
- Harvard Law Professor, Dr. David Kennedy
- Moderator: Mr. Matti Joutsen, Professor at John Jay College and Director of HEUNI

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The participants stressed that the fairness and efficiency of the enactment, administration and enforcement of the law assumes that the bodies involved have adequate resources and training, and that these bodies properly reflect the makeup of the community that they serve. Particular attention was paid to the importance of operationally autonomous law enforcement authorities, an independent judiciary and other legal professions.

The rule of law is therefore at the heart of the United Nations agenda, and examples were given that without the rule of law, rural villages deprived of the possibility of electricity or drinking water due to weak, exclusive and corrupt institutions remain marginalized, and their members are prone to poverty and hunger; young girls kept at home or who become the victims of forced marriage or trafficking cannot complete their education and fulfil their true potential in their communities, and fishermen whose fishing grounds are polluted by the dumping of hazardous wastes by organized crime have no credible mechanisms to turn to, and cannot contribute to inclusive economic development.

#### **4. The Role of Civil Society and The Private Sector in Advancing a Global Rule of Law Agenda.**

Third session:

- Founder and CEO of the World Justice Project, Mr. William H. Neukom
- UN WOMEN Regional Representative, Ms. Roberta Clarke
- Former United States Ambassador-at-Large on Human Trafficking, Dr. Mark Lagon
- Former Director-General of the National Police Bureau of Pakistan, Mr. Tariq Khosa
- Moderator: Mr. Vitit Muntarbhorn, Professor at Chulalongkorn University.

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The participants recognized the importance of integrating the rule of law, justice and security into the post-2015 United Nations development agenda. They welcomed the recognition given in the Declaration of the High-Level Meeting of the General Assembly on the Rule of Law at the National and International Levels, in the report of the United Nations System Task Team on the Post-2015 United Nations Development Agenda, and in the report of the High-Level Panel of Eminent Persons on the Post-2015 Development Agenda to the rule of law, justice and security.

While the importance of the rule of law, justice and security had been recognised when the MDGs were adopted, at that time they were deemed to have indicators too difficult to measure. Now this has changed, since the methodology and data collection on the rule of law is well advanced. It is no longer a question of whether, but rather how the rule of law can be best reflected in the post-2015 development agenda. For example, the World Justice Project produces an annual “rule of law index” based on such indicators as limits to government powers, the absence of corruption, order and security, and fundamental rights. In addition, a recent publication of the United Nations Office on Drugs and Crime, “Accounting for Security and Justice in the post-2015 Development Agenda”, also sets out clear goals, targets and indicators that are key measurements for the rule of law.

#### **5. Deliberations on the Post-2015 Development Agenda**

The Report of the High Level Panel of Eminent Persons on the Post-2015 Development Agenda: “A New Global Partnership: Eradicate Poverty and Transform Economies through Sustainable Development”, commissioned by Secretary-General of the United Nations, calls for five transformative shifts in the post-2015 development agenda: 1) Leave no one behind, 2) Put sustainable development at the core, 3) Transform econo-

mies for jobs and inclusive growth, 4) Build peace and effective, open and accountable institutions for all, and 5) Forge a new global partnership.

*§5.1. Leave no one behind: the importance of the rule of law, justice and security in ensuring that no person is denied universal human rights and basic economic opportunities*

Many speakers emphasized the fundamental role of the rule of law and its interrelationship with universal human rights. The rule of law should be based on human rights and was seen as the legal background that protects human rights. It was further suggested that development under the rule of law should be recognized as a human right on its own. The linkage between the rule of law and universal human rights was seen also in the importance of ensuring access to justice for all citizens, and in this way access to other opportunities. As noted by Her Royal Highness, “all individuals should have the right to a legal identity and the ability to participate directly or indirectly in the decision-making process on policies that will affect their future”.

*§5.2. Put sustainable development at the core: the importance of the rule of law, justice and security in bringing about more social inclusion*

The participants noted that sustainable development has clear economic, social and environmental dimensions. This is clearest in respect of the way that the exclusion of women has had a practical impact on development. Gender-based violence constrains the rights of all women, both in private places and in public, and limits their contribution to the development of societies. Research in Southeast Asia has further shown that those committing violence against women often have impunity before the law. This encourages further violence and can only be reversed by structural changes in the justice system, designed to ensure that women receive fair and equal treatment. Access to justice should therefore be based on the principle of fairness and equality before the law.

*§5.3. Transform economies for jobs and inclusive growth: the importance of the rule of law, justice and security in ensuring diversified economies, with equal opportunities for all, to unleash the dynamism that creates jobs and livelihoods, making it easier for people to invest, start-up a business and to trade*

Several speakers stressed that the conduct of trade, investment and business are facilitated and protected by a body of accessible legal rules. An essential building block for sustainable economic development is therefore the effective protection of private property rights, and in particular the protection of intellectual property. This will create the confidence needed in crucial sectors to make long-term investments. In addition, only transparent, effective and accountable institutions can protect vulnerable groups against predatory practices by those in power. Accordingly, it was argued that all persons should be treated as economic assets and as worthy of economic access. It was further emphasized that development should be driven not only by government action, but also by private investment. The importance of this is underlined by the fact that over 90% of jobs in developing countries are created by private enterprise.

*§5.4. Build peace and effective, open and accountable institutions for all: the importance of the rule of law, justice and security in securing freedom from fear, conflict and violence, and ensuring that governments are honest, accountable and responsive to the needs of people*

The stability of society was seen to require public security and social justice; otherwise development goals are at serious risk. Corruption and transnational organized crime, including trafficking in drugs and persons and the trade in counterfeit products, require a response on the national and international levels. It was emphasized that corruption is a severe impediment to sustainable development, since it diverts resources away from poverty eradication, the fight against hunger and the delivery of public services. In Southeast Asia alone, the cost of transnational organized crime in society exceeds \$33.5 billion. Moreover, in conflict and post-conflict societies, the rule of law is weak and government institutions are even more prone to corruption. Conflicts, crises and a poor rule of law negatively impact neighbouring countries, and it is only by creating, or re-establishing, a viable justice system and respect for the rule of law, that a renewed round of violence can be prevented.

*§5.5. Forging a new global partnership: the importance of the rule of law, justice and security in creating a new spirit of solidarity, cooperation and mutual accountability*

Good governance and effective rule of law were seen to underline the social contract between the individual and State. Only when laws are inclusive, when order and security are maintained, and when government institutions are transparent, is there a solid foundation for peace and prosperity in society. Inclusive laws resulting from a democratic and transparent process will enhance their legitimacy among the population and strengthen trust in the government. Together with an equal enforcement of these laws through an accessible justice sector, these conditions provide citizens with the necessary notion of fairness and security to live their lives in freedom and peace. This partnership should also include others: civil society, indigenous and local communities, traditionally marginalised groups, multilateral institutions, local government, the business community, the academic community, religious organizations, private philanthropy, and other governments.

## **5. The way forward**

29. The participants were encouraged by the recognition given to the importance of the rule of law, justice and security by the Declaration of the High-Level Meeting of the General Assembly on the Rule of Law at the National and International Levels, the report of the United Nations System Task Team on the Post-2015 United Nations Development Agenda, and the report of the High-Level Panel of Eminent Persons on the Post-2015 Development Agenda, but were mindful of the need for further elaboration of the concepts, and for the establishment of goals, targets and indicators.

30. Several speakers emphasized the importance of these issues to ASEAN, especially with the formation of the ASEAN Community in 2015. They called for further work within this framework and expressed the hope that the ASEAN Community would serve as a model for regional cooperation in the future.

31. The hope was articulated that the 13<sup>th</sup> United Nations Congress on Crime Prevention and Criminal Justice, to be held in Doha, Qatar in 2015, will continue the dialogue on the rule of law, in line with its theme to "Integrate crime prevention and criminal justice into the wider UN agenda to address social and economic challenges and to promote the rule of law at the national and international levels, and public participation". It was suggested that Thailand should work together with other Member States within the context of the regional preparatory meetings for the 13<sup>th</sup> United Nations Crime Congress, and uti-

lize the opportunity to further the discussion on the importance of the rule of law for development.

32. The Government of Thailand called upon the intergovernmental Open Working Group on Sustainable Development to identify ways to mainstream the rule of law, justice and security into the post-2015 development agenda. The Bangkok Dialogue on the Rule of Law was highlighted as part of an ongoing 'process' involving Member States, the academic community, civil society and the private sector, aiming to integrate the rule of law, crime prevention and criminal justice in the post-2015 development agenda.

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*\* This Summary Report is published in advance of a larger and more comprehensive Final Report on the Bangkok Dialogue on the Rule of Law, anticipated in 2014.*