

THE RULE OF LAW IN RETREAT

Challenges to Justice in
the United Nations World



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enumerated the three primary institutions of the rule of law: (1) publicly known laws, (2) an independent and knowledgeable judiciary, and (3) a force to enforce laws, execute judgments, and maintain public peace and safety. An expanding array of institutions such as law schools, bar associations, prisons, intelligence services, bail systems, and the like support these institutions.¹² The UN articulation of the rule of law requires both human rights and democracy as necessary elements.¹³ The UN transitional presence in conflict and post-conflict societies veers it toward the rule of law institutional building. However, the means and the ends must go tandemly. We demonstrate that anti-corruption, including within the UN system and international organizations, is the lever to push the rule of law institutions toward the desired outcomes.

To conclude this section, we quote a legal maxim modified by Koechler, “the rule of law is not *fiat justitia, pereat mundus* (Let justice be done, though the world may perish) rather it is *fiat justitia ne pereat mundus* (let justice prevail so that the world does not perish)”.¹⁴

THREE BASKETS OF THE UN-LED RULE OF LAW

UN has three main “baskets” of the rule of law activity: the rule of law at the international level; in the context of conflict and post-conflict situations; and in the context of long-term development,¹⁵ including the SDGs.

The UN and the International Rule of Law

The “international rule of law” means applying the rule of law principles to relations between states.¹⁶ The UN Charter provides the core principles of the international rule of law to include sovereign equality of states, noninterference in internal affairs, prohibition of the threat, or use of force and the settlement of disputes by peaceful means.¹⁷ The mediation of dispute settlement under international law is through the International Court of Justice, and other tribunals specialized in particular branches of international law, such as the International Tribunal on the Law of the Sea, the UN Commission on International Trade Law and the International Law Commission.¹⁸

Aside from the foundational concept of *pacta sunt servanda*,¹⁹ the UN promotes the international rule of law through international protections for human rights and the codification of the content of international law.²⁰

The International Convention for the Protection of All Persons from Enforced Disappearance has enhanced international legal protection. Also significant is the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment that entered