



**UIA Bar Leaders' Briefing
Special Focus on Modern Day Slavery**

Opening remarks for the afternoon session

by

Mr. Miguel de Serpa Soares,
Under-Secretary-General for Legal Affairs
and United Nations Legal Counsel

*UN Activities Supporting the International
and National Rule of Law and the Importance
of Protecting an International Rules-Based System*

28 June 2018

Distinguished participants, ladies and gentlemen,

It is a pleasure for me to be invited to this event that addresses a centuries-old problem, which is unfortunately still a contemporary criminal activity: slavery. I believe that today's meeting will give us a good opportunity to examine the current state of affairs and seek the way of improving our joint work to ensure the most basic human right to live in freedom and dignity.

I would like to address the broader context of slavery and discuss with you, in general terms, how to ensure the implementation of human rights, including protection against modern day slavery.

Human rights standards are one of the "three pillars" enshrined in the United Nations Charter, along with peace and security, and development. The main problem remains – how to effectively implement them.

The United Nations has addressed this question through rule of law mechanisms, with a specific focus on international law instruments.



Rule of law has been at the very foundation of the United Nations since the creation of the Organization. In the preamble of the Charter, the Member States of the United Nations express their determination “to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained”. These obligations include the prohibition on slavery which, as the International Court of Justice said in 1970, in the *Barcelona Traction* case, is a norm creating obligations *erga omnes* for states.

Over the years, the Member States and the international community at large have confirmed that the rule of law helps to sustain peace and prevent conflicts, and to protect and promote human rights.

Rule of law has also been considered as central to the realization of the 2030 Agenda for Sustainable Development, and has been included across all 17 Sustainable Development Goals, with a particular focus on Goal 16 dedicated to the promotion of access to justice and building effective and accountable institutions to ensure development.

The rule of law at the national and international levels has been on the agenda of the Sixth Committee of the General Assembly since 2006. The Security Council is also actively engaged in the rule of law agenda. And the Secretary-General regularly reports to the General Assembly on strengthening and coordinating United Nations rule of law activities. The recent as well as upcoming reports propose innovative ideas on how to strengthen effectiveness, sustainability and coherence of the rule of law activities across the three pillars of the Organization.

Rule of law assistance is provided at the national level, at the request of the Member States and in accordance with their current needs. At the international level, the United Nations has helped to shape the international legal framework. In particular, the United Nations had been providing access to peaceful settlement of international disputes, has contributed to the fight impunity in order to ensure accountability for serious violations of international law.

In this regard, allow me to focus on criminal accountability, which I consider particularly important in the context of today’s topic. It underlines the core role that international law, and in particular international criminal justice, has played and can play in the fight against modern day slavery.



Contemporary international criminal justice has been the product of collective efforts of the United Nations and its Member States over the last 25 years. Individual criminal responsibility is now well-established as the way to ensure that the most serious crimes of concern to the international community as a whole, including slavery, do not go unpunished.

In addition to the Slavery Convention of 1926 and the Supplementary Convention of 1956, the prohibition of “slavery and the slave trade in all their forms” was also recognized in Additional Protocol II as a fundamental guarantee for civilians and persons *hors de combat*.

Enslavement was also considered a crime against humanity in the Charters of the International Military Tribunals at Nuremberg and Tokyo and was listed as a crime against humanity under the Statutes of the International Criminal Court and of the International Criminal Tribunals for the former Yugoslavia and Rwanda. In this regard, in the *Kunarac* case, the Appeals Chamber of the ICTY considered (and I quote) that “contemporary forms of slavery formed part of enslavement as a crime against humanity under customary international law”. The ICTY also referred to slavery as a violation of the laws or customs of war.

In addition, more recently, international accountability mechanisms other than tribunals are also paying specific attention to the issue of slavery.

In the case of Iraq, the Security Council showed unity in unanimously adopting resolution 2379 last September and requested the Secretary-General to establish an independent investigative team to support domestic efforts to hold Islamic State in Iraq and the Levant (ISIL/Da’esh) accountable for its actions in Iraq.

In its resolution, the Council made specific references, among others, to “enslavement, sale into or otherwise forced marriage, trafficking in persons” and “sexual slavery and other forms of sexual violence” and considered that the commission of such acts may amount to war crimes, crimes against humanity or genocide. My Office has been working closely with the Government of Iraq and other key stakeholders to move towards the prompt operationalisation of this new mechanism. The Special Adviser and head of the Investigative Team, Mr. Karim Khan, has been appointed by the Secretary-General and will start this important work on 1st of July.



In conclusion of my short intervention today, I would like to reiterate that it is essential to have a serious commitment of the entire international community in fighting contemporary forms of slavery by ensuring that the existing legal instruments are effectively implemented, and that the rule of law governs all our activities at the international and national levels. It is key to preventing human suffering and defending our common humanity. The Secretariat of the United Nations stands ready to support these efforts.

Thank you.