

THE QATAR LAW FORUM

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“The Rule of Law in a Global Context”

Address by

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Your Excellencies, Chief Justices, Distinguished Colleagues, My Lords,
Ladies, Gentlemen, Distinguished Colleagues

It is an honour to have been invited to give a short address to open the work of the Qatar Law Forum. It would not be possible to be given a topic of greater importance than “the Rule of Law in a Global Context”. I hope that my remarks will provide a foundation for the dialogue that lies ahead. I welcome the fact that this dialogue will include audiences beyond this room. I hope that we will continue the dialogue when we leave Qatar.

May I invite you to look back and to look ahead.

When I was born, before the Second World War, respect for sovereignty was the most important element of the international rule of law. The danger was of conflict between states. If each country would only leave its neighbours to lead their own lives, all would be well. Well of course they did not and it was not. We had a world war. And at the end of it there was recognition, with the signing of the United Nations Charter and the Universal Declaration of Human Rights, that the way that individual countries treated their citizens was a matter for international concern and for international reaction. I was to see one of the consequences of that concern when I sat in London on General Pinochet's unsuccessful appeal against his extradition.

But there were other causes for international concern that were not appreciated. When I was a boy man had made relatively little impact on the planet. Vast areas of forest covered much of the globe. The seas were filled with fish. In most countries car owning was a rarity and if an aeroplane went over all looked up, and this was not just because we were used to it dropping a bomb. But we were on the threshold of amazing technological advances, many of them based on the use of fossil fuels from this region of the world. They seemed beneficial. They enabled

ready access for peoples within their own countries and enabled them to visit each others.

They improved the quality of life – central heating, air conditioning, plastics – can you remember the enthusiasm that there was for the vast range of useful objects that could be made from this wonderful new material – not least plastic bags?. There have also been wonderful advances in the field of medicine that reduced infant mortality and postponed old age.

This conference exemplifies the wonders that have been achieved in our lifetime. Those in this hall have been plucked from their work-paces all over the world and transported to this amazing country. I passed through Qatar about 30 years ago and it did not look like this. We are enjoying wonderful hospitality in what, in high summer, used to be one of the less hospitable areas of the world. Yesterday I had to adjust the air-conditioning in my room because I was too cold.

But now we are reaping the consequences. Many of the oceans are almost empty of fish, and vast tracts of them polluted by chemicals and waste. The ozone layer has been damaged and we are experiencing global warming. Satellite photographs show that by night huge areas of the world are artificially illuminated, but the supplies of oil and gas which

throw light on the world are running out. Population growth and increased consumption due to the demands of sanitation and more intensive irrigation now mean that there is not enough water for the needs of all. Climate change is making things worse. It is threatening to reduce areas that were fertile to desert. China is building a gigantic pipeline to convey water from the south to regions becoming arid in the north, but at least their problem is or redistributing water within a single country. How are such problems to be tackled where more than one country relies upon a common source of water?

Most scientists are agreed that if global warming continues the melting of the polar icecaps is going to submerge tracts of land that are currently inhabited by a significant proportion of the world population.

These pressures are already leading to stresses. Five countries fringe the northern arctic wastes under which lie a quarter of the worlds oil reserves and one of these has recently been sabre rattling. Market forces and commercial contracts have so far governed the distribution of oil from those countries that have reserves to those that do not. Can they continue to do so as supplies become scarce? In Qatar, with its huge resources of natural gas these concerns may seem remote, but even those resources are finite.

I have not as yet mentioned the stresses that may be uppermost in our minds as we read about events in North Korea, in Afghanistan and Pakistan, in Sri Lanka and in Gaza. Events that result from the tension between different religions and ideologies that are no longer restricted by state boundaries. The fact that we now take for granted the need for ourselves and our belongings to pass through scanning devices before we travel by air, or enter many public buildings, because of the risk that people will blow themselves and us to pieces.

It is almost impossible to imagine the extent to which these tensions are likely to increase in the lifetime of our children and grand-children. It's not something that we like to think about too much. After all, there is nothing that we can do about it. It is up to the politicians and the scientists. That, I suggest, is simply not correct.

There are only two ways in which these tensions will be resolved.

One is war and the other is law.

That is just how important the rule of law is. Without a universal commitment to the ultimate authority of law; law founded on principle

and administered through independent, stable and respected judicial systems, the world as we know it is not going to survive.

And that is something for which those of us who are here have a responsibility. That indeed is why we are here.

Meeting these challenges will call for international agreements on measures that will involve sacrifices by nations and by individuals. It will require that these measures be enforced nationally and internationally. It will require on a national and international basis a profound respect for the rule of law.

May I advance six short propositions that I suggest will be at the heart of our success or failure in ensuring that tensions are resolved by the rule of law, and not by acts of war.

First, there must be national respect for the rule of law.

Respect for the rule of law has to be learned and earned.

How can we expect people to recognise and respect rules of law that address global problems if they do not hold inviolate the rule of law in the countries in which they live? Governments must respect the rule of law

in their own countries if there is to be any hope that they will respect it in their dealings with each other.

Second, the commitment to the rule of law must be worldwide.

Just as it is unacceptable for some citizens to treat themselves as above the laws that apply in their country, so it is unacceptable for some countries to opt out of laws that are essential for the survival of the world. And these, I believe, include laws that respect human rights. Where there is not respect for law within a country, repercussions are felt outside it, as mariners who pass the coast of Somalia are only too well aware. We have here high representatives of international courts whose task it is to administer law on a global basis. Courts that governments and individuals respect and whose decisions are influencing conduct in many nations.

We should look forward to a time where there is nowhere in the world where those who are inclined to abuse human rights can feel confident that they can do so with impunity.

Thirdly, everyone shares responsibility for maintaining the rule of law.

The rule of law is not just the responsibility of our political leaders, although the responsibility starts with them, nor just of our judges, lawyers and legal academics. It is the responsibility of all, of every

policeman, teacher, soldier, immigration officer, company director, religious leader, civil servant, journalist – indeed of every citizen.

A word here about the artificial persons that the law creates: companies and other corporate institutions. They too must observe the rule of law and their existence must not diminish or obscure the responsibility of their members for ensuring that they do so. If they are responsibly run their very size can be a powerful factor in fostering respect for the rule of law. Corporate social responsibility must be part of the ethos of every company.

Fourth, the rule of law requires constant vigilance

The rule of law is never negotiable. It is not a luxury item that can be put away in the cellar in times of emergency, to be brought out again when things get better. Neither government nor the citizen can be permitted to believe that fighting terrorism is more important than observing the rule of law. Upholding the rule of law is a vital part of the fight against terrorism, for the real battle is one of ideology, not of arms.

For a while the threat of terrorism has been driven into second place by concerns about the global economic crisis. We may think that we can identify some who are responsible for this crisis, those the press like to

call “fat cats”, bankers and hedge fund managers who received bonuses that, to those of us who were not so favoured, may appear obscene.

If such persons have been in breach of legal duties, then by all means subject them to the appropriate legal sanctions. What is not acceptable is to attempt to punish them by retrospective legislation or by media blackmail.

In times of crisis, judges and lawyers have a particularly important role to play in ensuring that popular emotion does not subvert the rule of law.

In my country, in the United States and, in other countries represented here, the demands of counter-terrorism are posing particular and difficult challenges to the judges’ task of upholding the rule of law.

My fifth proposition, access to justice must be open to all.

Equality before the law is an essential ingredient of the rule of law. It is a sad fact that comprehension of the law is often beyond the ability of the layman.

The state must ensure that those who need the help of lawyers if they are to obtain their rights receive the assistance that they need, and this is particularly true of those who find themselves subject to the attention of the criminal law. In this respect, as in all others, there must be no discrimination between men and women. It is only comparatively

recently that the evil of gender discrimination was fully appreciated in my country.

It is now, I believe, almost universally recognised in theory. It must be recognised in practice. Finally, and this goes without saying, corruption is a cancer that, if not cut out, is fatal to the rule of law.

My sixth and final proposition, dialogue, understanding and mutual respect are the keys to a rule of law strong enough to withstand the stresses that lie ahead.

Dialogue in the search for consensus from a starting point of mutual respect must become a way of life, and in particular a way of our lives as members of the global legal community.

The search is not for identical laws or legal procedures, but for common principles and values that we recognise must also be common goals. These must go hand in hand with a recognition of our different traditions and procedures as we gain a greater understanding of our respective ways of applying the rule of law.

There is a need for regular conversations between the judges of different nations, between those who practice law in the Middle East and those who practice law elsewhere, between lawyers and academics of countries that share borders but do not, perhaps, share amity. In this way the global

legal community will be better able to identify where the rule of law is under threat and to assist in providing the solution that is needed.

This Forum is a far-sighted example of the dialogue that I am calling for and much credit and much gratitude are due to His Highness the Emir and to the Government of Qatar for bringing it about. I cannot think of any event that I have attended that has had a greater breadth and higher level of participation. The organisers did not exaggerate when they spoke of “an unprecedented gathering of global leaders in law.

The result is an opportunity, and a quite remarkable one, to affirm – or re-affirm- a global commitment to the rule of law, and to ensure that we take away and use what we gain from this forum, rather than treating this as an ephemeral occasion for theoretical discussion.

It is my belief that a world of law may avoid a world at war. To achieve this is worth our every effort.