

KEYNOTE SPEECH: KUALA LUMPUR 28 OCTOBER 2026

1. Over the past 25 years, the world has become a much less comfortable place than it was in the last half of the last century. I suggest that the four main features which distinguish the earlier period from the current period are
 - a. increasing domestic political discord in many countries,
 - b. rising international political and economic tensions,
 - c. awareness of imminent environmental problems, and
 - d. the startling growth of Artificial Intelligence.
2. These four features have serious, even existential, implications for every human being, but they have a particular resonance for lawyers – and especially for young lawyers, who will be undergoing the consequences of these features, and who will have to face up to them.
3. Why especially for lawyers? Well, in so far as each of these four features represents a threat to the social, cultural and economic life of human beings, the threat can be modified, even removed, if the rule of law is maintained, enhanced, observed and enforced. Given that it can have different meanings to different people, what do I mean by “the rule of law” in this context?
4. I have in mind the basic meaning, which involves a society being run according to laws, in contrast with societies which are anarchic, or are run by arbitrary decisions of dictators. This basic form of the rule of law is a fundamental cornerstone, maybe the most fundamental cornerstone, of

a civilised, and economically successful country. Without it, a country has to face the unedifying choice between dictatorship or anarchy, or, what often happens in practice, a horrible combination of the two.

5. Now the basic rule of law has certain essential characteristics. First, the laws which impose rights and duties must be both physically accessible and reasonably comprehensible, as people have to know what their rights and obligations are. Secondly, the laws have to apply to everyone, including rich and powerful individuals and companies, the government, and the people in the government. Thirdly, the laws must be effectively enforceable by those with rights, and effectively enforced against those who breach the law.
6. Effective enforcement means that we need courts with judges who are independent, impartial, competent, whose processes are efficient, whose decisions are respected and enforced, and to whom anyone with rights has access, and before whom people who break the law can be brought and dealt with. If people have rights, but they do not have access to the courts to enforce their rights, or if people see the law being flouted without redress, the rule of law is a hollow shell. And if court proceedings take forever, the rule of law is a bit of a mockery.
7. In addition, we live in a world where the law is increasingly complex. So, access to independent, properly trained lawyers is an ever-more essential ingredient of the rule of law. Legal experts are needed to advise and to speak for individuals and companies and to assist the judges, when it comes to identifying, interpreting and applying the laws. If access to

lawyers for advice or for representation in court is restricted to the rich or the few, you do not really have the rule of law.

8. And it's not just moral and societal factors which make the rule of law so important. Countries which enjoy the rule of law, and have effective democratic institutions are much more likely to be peaceful and economically successful. The winners of the 2024 Nobel Prize for Economics demonstrated just how important it is for peace and economic success for a country to have the rule of law. They showed that countries which enjoy the rule of law, broad political participation, and respect for property rights, economically outperform countries which lack these institutional qualities, often to a very substantial extent. And when you think about it, that's not surprising. Businesses would think long and hard before investing in a country, where they could not be sure that their contracts, debt claims, employment arrangements would be honestly and effectively enforced by independent and competent courts.
9. So far, I have been talking about the rule of law inside a country, but a great deal of what I have said about the rule of law domestically applies internationally. Countries are less likely to go to war and take aggressive action if there are rules of interstate conduct which are observed and enforced through respected tribunals, courts, and mediators. And international trade is much more likely to thrive if business people have confidence that their contractual arrangements will not be interfered with by war or other international tensions, and that their contractual rights and disputes will be impartially adjudged and enforced according to the law. Certainly, the outlook for all of us would be pretty bleak if business

people have no confidence that their contracts and other arrangements will proceed smoothly and will be impartially interpreted and enforced according to the law.

10. The point is well illustrated by the fact that the relatively stable political and legal world order which prevailed in the second half of the last century provided an excellent environment for the growth of international trade. Between 1960 and 1980, international trade increased more than ten-fold, and, building on that growth, international trade increased more than twelve-fold between 1980 and 2020.

11. However, things are rather different today. The previously stable United States now appears to have little regard for the rule of law internationally and has adopted a misconceived mercantilist view of trade. Russia is said to be indulging in what one might call IT terrorism. There are bombings and mortar attacks and serious interference with trade in the Middle East. There is the rise of populism and recent crowd violence in Europe. There is the continuing war in Ukraine, and allegations of genocide in more than one country. There are sanctions and counter-sanctions, and tariffs and counter-tariffs across the globe. And faith in the United Nations is fading, while the World Trade Organisation is crippled, and the super-powers and others are undermining international courts. More broadly, there is, as I have mentioned, there is growing evidence of serious climate change, the astonishing progress of artificial intelligence, and the decline in the number of democratic governments.

12. In any event, international law is problematic in ways that domestic law is not. First, on many issues it is not possible to get a general consensus because different countries have different cultures, different views, and so a generally recognised set of legal rules is often not possible. When it comes to identifying generally accepted principles of international law, so-called *jus cogens*, that is an obvious problem. It is also a problem when seeking to draft an international treaty or convention. This can sometimes be negotiated round, but it takes a lot of effort and time. But that coalesces with a second problem with international law, namely that, once one has an international treaty or convention to which most countries are committed, it is very difficult to alter it, and in a world which is as fast-changing as ours that is a serious problem. The third and probably the greatest problem for international law is enforcement. Even small countries often breach their obligations shamelessly and nothing happens. And superpowers can get away with persistent and serious breaches without any international action. Indeed, China Russia and the US do not acknowledge the jurisdiction of some international courts.

13. But, whatever hurdles it faces, international law is a force for good, although it does no service to international law to seek to force it to go further than is practicable. If laws, whether domestic or international, are persistently flouted without any come-back, it brings the law, whether domestic or international, into disrepute, which in turn undermines the rule of law.

14. Whether we are talking nationally or internationally, therefore, the rule of law is vital, and that means that lawyers play a vital part in helping to make, develop and propagate laws, in helping to apply, interpret and enforce laws, and in helping to improve, amend and extend laws. Those tasks are more difficult in times of national and international stress, but for the same reason those tasks are even more important in times of national and economic stress. Decisions of the US Supreme Court have never been so discussed as in the present times, and that is because the rule of law is under attack in the US: courageous and effective lawyers are stepping up to the plate.

15. An important example of a topic where lawyers can play a vital part internationally (and indeed nationally) is on the environment. The problems of getting consensus in international law is well reflected in attempts to get agreement about climate change. It is clear to any fair-minded person that the environment is under threat to a potentially disastrous extent, and it is also clear that human activity contributes to that threat. What is much more open to debate is the nature, extent, timing and consequences of any disaster, and how to balance the need for action with practicality. However, because different governments have different interests and different convictions, and any action will be expensive and often unattractive in the short term, it is extremely hard to get even a broad consensus, and impossible to get a near-general consensus. While the solution must ultimately be political (and economically driven), there is no doubt that lawyers and the law can and do play a vital role in this very important area – with suggested model

laws, international conventions, targets and the like, as well as promoting discussion.

16.Domestically, there is much that lawyers can do for the environment: they can help formulate and draft policies and guidance such as corporate sustainability guidance, they can help draft and enforce regulations, and they can formulate and pursue public-interest lawsuits.

17.When it comes to domestic law more generally, Malaysia and England share a fundamental feature, namely the common law. Although the majority of countries have a civil law system and only a minority of the world is run by common law rules, the attraction of the common law is proved by its popularity in international commercial disputes. It is noteworthy how many international commercial contracts are made subject to common law, even when the parties and the subject matter are based in civil law jurisdictions. England particularly benefits from this, perhaps because it was where the common law started, but more, I think, because it has the longest tradition of the common law approach to commercial law, an approach which manages to be both predictable and pragmatic.

18.The common law system places a particular responsibility on lawyers in court. Our judges are traditionally seen as non-playing umpires whose job is to decide cases by reference to the evidence and arguments which the lawyers put before them. Indeed, the law reports of England include cases where a judge's decision has been overturned by the Court of Appeal on the ground that the judge interfered with the hearing too much. Our so-

called adversarial system contrasts with the inquisitorial system in the civil law system. Again, international commercial arbitration favours the common law approach, and it is noteworthy how many places with civil or other non-common law systems are setting up special commercial courts run on common law lines with common law rules.

19. The fact that common law judges are largely non-playing umpires throws a lot of responsibility on those lawyers who are responsible for presenting cases in court. Both their clients and the judge are relying on them to identify and present the relevant facts and the relevant law. That puts a very high premium on honesty and competence. I think it is worth dwelling a little on both qualities.

20. So far as honesty is concerned, almost everyone would agree that it is essential to a trusted justice system, and therefore to the rule of law, that the judges are honest (as well as competent, impartial and independent). But it is almost equally as important for the rule of law that lawyers, whether acting for, advising or appearing for clients, are honest and comply with their professional duties. The temptations for practising lawyers is much greater than for judges, as judges' professional lives are largely detached from the real world, whereas lawyers' professional lives are intimately tied up with clients some of whom are not merely in the real world but have a great deal of money and rather less moral sense. And this is sometimes very tempting to give a client the wrong advice it wants, to break the rules in order to win a case, or to mislead the court when you don't think you'll be found out, particularly in this increasingly commercially driven and fast moving world. I have seen lawyers do that, and I have appreciate how true it is that it is very easy for a lawyer to get

a reputation for dishonesty or sharpness, and, once one has such a reputation, whether with the judiciary or with the profession, it is very, very hard to shake it off.

21. I cannot pretend that honesty always pays off, at least in the short term. I lost one or two briefs, which would have been well-paid, through refusing to say that my instructing solicitor could break the rules – in one instance the solicitor wrongly wanted to be told that he could refuse to disclose a document which badly harmed the client's case, in another instance, the client was insisting on me coaching the witnesses, which is not allowed in England. I just felt that I would be letting down myself and the justice system I was so proud to be part of if I didn't obey the rules.

22. So far as competence is concerned, judges and ex-judges are often asked what makes a good advocate. I suggest one or two points, in addition to the familiar get on top of the facts, check fully on the law, and marshal your arguments.

23. First, these days when you have written and oral submissions, it is in general a mistake for your oral submissions simply to follow your written submissions. You have a chance to put your case twice and so, while it should not be wildly different from your written argument, your oral argument should have its own immediacy. In front of some judges, particularly those who haven't read the written submission, or sometimes when the case is very simple or very complex, this advice should not be followed.

24. Secondly, advocacy is a personal thing, so what works for me may not work for you. Play to your strengths: if you are a natural conciliator, don't pretend to be aggressive, and vice versa. Thirdly, the Judge is also a human being, so, within limits, play it their way. For example, some judges are very quick and impatient, whereas others are slow and deliberate: adjust your tempo accordingly. Some are more influenced by the merits whereas others concentrate on the law. It's more difficult on an appeal where you may have judges with very different temperaments. Fourthly, your job is to win the case. So, think yourself into your opponent's shoes and work out what they may say: it will make you better prepared and will often give you fresh perspectives on the case.

25. Fifthly, your job is to try and persuade the judge, not yourself, not your client, not your opponent; so ponder in advance about what a judge might think of your case, and during the hearing watch the judge and listen to the judge. So, if the judge asks a question, reply to that question (even if the answer is "I don't know" or "I will have to check" or "let me think a moment"). I know that advice seems obvious, but it's amazing how often it is not observed. Sixthly, be clear: it helps if your sentences are not too long. Where appropriate, it helps if you number your points – but never say I have "six" or whatever it is points – always "a number of" points. It's amazing how often, when you are on your feet, a new point occurs, or you realise that two of your points are the same, or the judge comes up with a point – and if you've said how many points you have you can't say "that was my next point".

26. Seventhly, while it's not always true, especially with slow and deliberate judges, long submissions don't automatically equate with good

submissions. Often, pithy, concise arguments are both clearer and more convincing than long, repetitive arguments. Brevity can also convey confidence, whereas lengthiness, complexity and repetition do not generally engender credibility. Eighthly and finally, learn from your advocacy successes and mistakes, and learn from your opponents' advocacy successes and mistakes. However experienced you are, you will make mistakes, and however experienced you are, you are never too old to learn.

27. The final topic I would like to touch on is AI. In the legal world, we have been using AI in relatively basic forms for many years, for instance through the use of search words in e-disclosure exercises, and through electronic databases and search-engines of statutes and caselaw. These developments, just like remote hearings, ultimately involve no more than the introduction of greater efficiency into established systems. More recent AI goes much further than that: it is starting to mimic and invade our thought-processes; indeed some might say that it is well under way in that connection.

28. I see nothing wrong in principle with lawyers or even judges using AI. Indeed, if it is a useful tool, we would need to have a very good reason not to use it. But, both as a matter of principle (because it is the lawyer who is preparing the advice or presenting the case and the judge who is giving the decision) and as a matter of practicality (because AI is currently unreliable with its hallucinations and recall errors), it cannot be over-emphasised any information provided by AI must be rigorously checked, before it is passed on into an advice, a submission or a judgment. In

England, the Court of Appeal has had cause to criticise very publicly advocates who used unchecked AI with invented previous decisions to make their written case to the court.

29. In the light of that strict requirement, some people may think AI more trouble than it's worth, but that seems to me an over-reaction considering the benefits which it can confer. However, there is a more subtle point about using AI, which is that use, or at least over-use of AI can lead to shrinking of a lawyer's critical and analysing abilities. I don't know if that suggestion is right, but it has a certain ring of truth. If you don't use a muscle, it tends to atrophy, and, perhaps even more to the point, if you keep on practising, whether at a musical instrument, at a sport, or at an intellectual exercise, you get better at that instrument, sport or exercise. So, if you get into the habit of always consulting AI when you have legal problem, may there not be a risk that your legal thought-processes start to dry up, or at least fail to develop as they should? I suggest that you bear that factor in mind.

30. In the medium term, there is a real possibility that AI will cause a real fall-off in recruitment of young lawyers. By all accounts, AI can produce a first draft of a pleading, a letter, an advice, or a piece of research which can often be as good as that which would be produced by a young lawyer at the start of their career – and can do far, far more quickly and more cheaply. So there would appear to be a real risk that recruitment of young lawyers will take a sharp dive. There are some stories circulating in London that that has started to happen. If it does happen, it would not just be

worrying for young lawyers, but it raises the question of how do we get the next generation of experienced seasoned lawyers?

31. Having said that, I must immediately add that predicting the future is a mug's game, even if one appears to know what one is talking about. In 2016, Geoffrey Hinton, probably the top AI expert who worked for Google until 2023 and the winner of a Nobel Prize for his work on AI, announced that we should stop training radiologists as their work would all be done by AI within ten years. Ten years on, there are around 20% more radiologists in the US than when he said this, and they are in high demand. Rather than getting replaced by AI, they are using AI to do their jobs better.

32. Thus, it may be that AI leads to legal advice and representation being cheaper, so there will be more clients, and more work which will compensate for the fact that much of it will be done by AI.

33. Turning to the longer term, the notion of AI giving advice and determining disputes is no longer a fanciful idea limited to the world of science fiction. There are increasing stories of AI being used as a case-solver, and as a check or assistant to decisions of human judges. And I suspect we are near a time when much of the administrative work in litigation or arbitration will be done by AI. It is already happening in some national court systems, including in China. In the arbitration field, I suspect it will not be long before the functions of Tribunal secretaries will be carried out by AI. Indeed, I suspect that it is already happening.

34. While I say this without enthusiasm, my own expectation, for what it is worth, is that the moment when machines can carry out functions such as

advising on complex factual and legal cases, and deciding issues of fact, discretion and law, even in high-value sophisticated disputes, will eventually arrive. I don't know whether it will be in five years or 500 years, but I think it will happen. After all, our brains work through electricity and chemistry, and I find it hard to conceive why the brain's functions, including those involving emotion rather than intellect, cannot eventually be reliably mimicked electronically. If that happens, I suspect, indeed I fear, that the machine decisions will be quicker, cheaper and more consistent than human decisions. If and when we arrive at that situation, apart from problems such as unconscious bias which turn out to be built into a machine, the main problems I foresee are lack of transparency and public acceptability.

35. As to transparency, it is fundamental to our ideas of justice that parties to disputes should know why they have won, and, at least as importantly, why they have lost. But it appears likely that not even the designers of an AI machine will know how it reaches its conclusions – the black box conundrum. The use of AI in the field of medical diagnosis involves no such concern: if a machine diagnoses the mole on my skin as a melanoma more reliably than any dermatologist, I couldn't care less how it carried out that task. But if it decides that I must pay my builder £200,000 when I think the builder should be paying me, however much I am assured that the machine is reliable, I am very probably not going to be satisfied unless I know the reasons – and unless they are reasons which I can understand – and unless they are reasons which I can understand. All the more true if a machine is making me homeless, bankrupt or taking away my children or sending me to prison.

36. And it may be that the very consistency of machine decision-making will turn out not to conform with human experience or needs. We all talk about diversity these days, and it may be that diversity, or, more bluntly, unpredictability and inconsistency, of judicial decision-making is part of the natural stuff of life.

37. That is a specific aspect of the wider question whether people will accept machine-resolution of their legal disputes. It may well be that, at least after a time for adjustment, there will be eventual acceptance that machines can decide disputes, however much it seems like unrealistic science fiction to many people today. It may well be that we will not need to face the question whether there will be AI judges, AI arbitrators or AI mediators: if people conclude that AI will resolve disputes more reliably and more efficiently than humans, they may well simply consult a machine and accept the answer. But if we do have AI judges, will we expect a dispute to be decided by a machine, with a right of appeal to three machines, each of which is programmed to dissent in every six appeals – and even a further right of appeal to five machines? And in arbitrations, will each party choose a machine with the two chosen machines selecting the presiding machine? We will have to wait and see.

38. Now, there are always opportunities for gloomy predictions, and, as I have said, predictions of the future are generally unreliable. So, let me end with this. I am now in the twilight of my legal career; many of you are at the dawn of yours. Despite the uncertainties, the known unknowns and unknown unknowns of the future, I envy you all. Good luck

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