

Mary Robinson
“Why the Rule of Law Matters”
Keynote Address to the
World Justice Forum
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Ladies and Gentlemen:

It is a great pleasure to be here in Vienna for the World Justice Forum and the official launch of the World Justice Project. I am honoured to be among the distinguished group of individuals who are serving as honorary chairs for this initiative dedicated to building a global multi-disciplinary constituency to strengthen respect for the rule of law around the world.

I would like to warmly thank all of the sponsors of the World Justice Forum and Project – a remarkable coming together of leading organizations from a range of fields. And a special thank you to Bill Neukom and everyone at the American Bar Association for their leadership in making this event and the project possible.

I became fully aware of the depth of the American Bar Association’s commitment to global dialogue and action around the rule of law when I was invited to take part in an International Rule of Law Symposium organized by the ABA and the International Bar Association in Chicago in the fall of 2006. I was impressed with how the symposium sought to highlight the many intersections between the rule of law and a number of critical issues – from economic development to corporate responsibility, from women’s empowerment to environmental sustainability. It is true that for most people, the connection between the rule of law and their daily lives - including their safety, jobs, health, and education among others - is often taken for granted, particularly in communities where the rule of law is relatively strong. At the same time, advancing respect for the rule of law has to date not been at the forefront of efforts aimed at economic and social development. I will return to that subject later.

The other aspect of the Chicago symposium I found greatly encouraging was the joint call for renewed commitment to promoting strong and accessible legal processes in every country – developed and developing alike – and for new action to strengthen the rule of law globally.

I think it is fair to say that this call came about largely in response to growing concerns over actions taken by governments in the context of the so-called “war on terrorism” that has marked this first decade of the 21st century. As I have said many times since the horrific attacks on the United States of 9/11 2001, the war on terror has brought with it subtle changes in emphasis in many parts of the world. Order and security became the over-riding priorities leading to Orwellian euphemisms like ‘coercive interrogation’ used instead of what it really was and is - torture, cruel and inhuman treatment. ‘Extraordinary rendition’ used to mask the realities of kidnapping for torture abroad, and the list goes on.

Undemocratic regimes have viewed this change as an opportunity to pursue their own repressive policies. New laws and detention practices have been introduced in a significant number of countries since 2001, all broadly justified by the international war on terrorism. The extension of security policies in many countries has been used to suppress political

dissent and to stifle expression of opinion of many who have no link to terrorism and are not associated with political violence.

As we all know, these challenges remain. Over the past two years I have been honoured to serve as a member of an Eminent Jurists' Panel, established by the International Commission of Jurists and mandated to consider the nature of today's human rights threats and the impact of new and old counter-terrorism measures on human rights. My friend Arthur Chaskalson, Former Chief Justice of South Africa and the first President of South Africa's Constitutional Court, who is here with us today, serves as our Chair. We have seen up close the "new normal" which must be confronted.

What we found through our hearings, held in over 20 countries, is that while there is rhetorical acceptance of the importance of human rights in countering terrorism, a number of states have and continue to place their response outside the protection of the law. Seen in the totality of our hearings, the erosion of human rights has gone further than anticipated. We heard repeatedly about serious allegations of torture, cruel and inhuman or degrading treatment, and prolonged arbitrary detention, including incommunicado detention, secret detention and enforced disappearances – usually with impunity.

The fact that some governments openly justify departures from fundamental norms such as the absolute prohibition of torture or claim that secret detentions are legal, has undermined the most fundamental values protected by human rights law. This includes liberal democracies, notably the United States with its detention and interrogation policies. Here in Europe, too, while countries are not directly challenging the absolute prohibition on torture as such, they have been either complicit in human rights violations or complacent about those committed by others.

Our hearings have also highlighted how new laws have had the effect of closing space for legitimate political and social dissent and for controversial speech. We found a deep sense of alienation among the minority communities we came in contact with through our work. The shift towards preventive approaches to combating terrorism has led to a disproportionate impact on minority communities, and especially Muslim minorities. There is a strong sense that this has contributed to further alienation and radicalization of communities from which cooperation is essential for long-term strategies against terrorism.

The post 9/11 environment has also affected the legal community. In a number of countries lawyers are themselves under pressure when seeking accountability or defending terrorist suspects. Even in western democracies, we were told that civil society and the legal community are often portrayed as naïve, elitist and out of touch with reality and are consequently marginalized in the debate on new laws.

And whereas many counter-terrorism laws are justified as temporary measures, the evidence gathered by the panel suggests that they tend to become permanent through repeated renewals or incorporation into permanent legislation. Some countries have enacted special counter-terrorism laws that are de facto emergency laws without a formal declaration of a state of emergency and/or in the absence of genuine threats to state security.

I think we all share the view that these worrying trends must be addressed. But other threats to the rule of law are also in our minds today. Sadly, a number are in Africa. We are witnessing the continuing violence and instability in Darfur, the almost forgotten suffering in

Somalia, and the recent violence in Zimbabwe which ruled out any sense that the presidential re-run election was free and fair.

Fortunately, there are other, more hopeful, developments in Africa which are responding to these challenges. A number of eminent Africans have recently spoken out publicly about the situation in Zimbabwe, and despite a disappointing resolution by the African Union at Sharm el-Sheikh, it is clear that leaders of neighbouring countries are seeking a political way forward in Zimbabwe. Another important initiative is being taken by the Mo Ibrahim Foundation which has created a prize for African leadership, and an Ibrahim Index to measure good governance – including rule of law – in the 48 countries of sub-Saharan Africa. The Club of Madrid is playing a critical role as well by bringing together former democratically elected presidents and prime ministers – including distinguished Africans – to serve as advisers and mentors in post-conflict and developing countries which want to strengthen their rule of law and adherence to democratic standards.

So the fight back is underway! And the World Justice Project is a vital part of that fight back. The question for all of us is: what must we do to lock in adherence to rule of law and international human rights standards in all countries as the key to achieving peace and security in the 21st century?

Since 2006, your work to develop the World Justice Project has already taken significant steps to address that question. The many organizations involved in this initiative have been on a journey – not only a journey to places - from Washington to Prague to Singapore, Buenos Aires and Accra, where you organized multidisciplinary consultative meetings to learn about what the rule of law meant to different actors in different contexts – but you have also been on a journey of discussion and discovery.

Your work to develop an ambitious project – The Rule of Law Index – designed to measure countries around the world in their adherence to the rule of law – is an important contribution. I'm sure we are all aware of useful initiatives by many organizations to examine aspects of the rule of law, but few attempts have been made to comprehensively evaluate all countries' adherence to it. I look forward to learning more during the Forum about the initial pilot results of the Rule of Law Index and how we can help in taking this critical work forward.

So I congratulate you all for having established such a strong foundation for making the World Justice Project a success in the years to come. Now our challenge is to reach out. I think all of us here are part of the same chorus. We share the conviction that without the rule of law, government officials are not bound by agreed standards of conduct. We know that without the rule of law, the dignity and equality of all people is not affirmed, and their ability to seek redress for grievances and fulfilment of societal commitments is limited. We believe that without the rule of law, we have no way to ensure meaningful participation by people in formulating and enacting the norms and standards which organize society.

But we know, too, that advancing respect for the rule of law will require a multi-faceted, multi-disciplinary approach if it is to be sustainable. I very much welcome the approach the World Justice Project is adopting through which other disciplines are being engaged as collaborators.

Allow me to share a few examples of such “reaching out” that I hope all of you will wish to be involved in and which may serve as links to the World Justice Project’s work in the time ahead.

The first example involves finding ways to safeguard the legal rights of those who are marginalized and living in poverty. It is an agenda for using the law as a tool of empowerment. Over the past year I have served on the Commission for the Legal Empowerment of the Poor, chaired by Hernando de Soto and Madeline Albright. Our Commission has emphasized the importance of access to justice and the rule of law in guaranteeing all other rights.

In some of the world’s poorest countries, up to 85% of the population are completely outside the rule of law, outside access to justice and don’t know anything about their fundamental rights. They live in the informal sector where they do their best but they don’t have land security, their children are not registered at birth. Estimates are that more than 70 per cent of children living in the world’s least-developed countries are without documentary proof of their existence. Just think of the multiple risks of exploitation they face as a result. Consider how their lack of legal status can limit access to health care and education and to participating in the political, economic and social life of their societies as they grow. This is an unacceptable situation which must be addressed urgently.

As our report, which was issued just last month and titled “Making the Law Work for Everyone” argues, full recognition of legal identity, assured access to the courts, basic labour protection, the right to own property and the rule of law to prevent exploitation by the powerful are all vital tools to enable the poor to realize their full potential. Yet the reality is that for four billion people on this planet, current policies and lack of capacity to provide for effective and accountable institutions prevent them from participating on an equal playing field. Putting it simply, for the majority of the world’s citizens, the rules of the game are fundamentally unfair.

I am pleased that we will be discussing the Commission’s report in a session later today. I think I speak for all my fellow commissioners in saying that we would welcome the involvement of the World Justice Project in helping take our recommendations forward.

The other example of “reaching out” I wanted to mention briefly is linked to an important landmark in the struggle for human rights which we commemorate during 2008.

This year we mark the 60th anniversary of the Universal Declaration of Human Rights, the first international proclamation of the inherent dignity and rights of all people. The Elders, the group of leaders convened one year ago by Nelson Mandela and Graca Machel - which I was somewhat shocked to be eligible to join! – but of which nevertheless I am proud to be a member, have called for the world to reclaim the Universal Declaration of Human Rights and recommit to fulfilling its vision.

The Every Human Has Rights campaign has been launched by the Elders in collaboration with a range of partners - from Amnesty International to CIVICUS, from Save the Children and UNICEF to the Global Call to Action Against Poverty - with the aim of revolutionizing the way people think about human rights. We seek to foster a global conversation on human rights and the values that unite us as one human family and put the power of human rights back in the hands of individuals and communities all over the world.

The Every Human Has Rights campaign is working through partnerships - with global NGOs, grassroots organisations, local civil society organizations and frontline leaders, as well as the private sector which increasingly recognizes its responsibilities for respecting human rights. We are calling on individuals around the world to make a personal pledge to live by the principles of the Universal Declaration. I am delighted that a full page ad for the campaign is part of the Forum program book. And I understand that there is also a computer station set up here where those of you who haven't already can visit the campaign website – everyhumanhasrights.org – and sign up yourself with your pledge to support the Universal Declaration.

To conclude, I return to the World Justice Project itself, which I support with passion. Let me borrow words from Seamus Heaney's poem, from *The Cure at Troy*...

Human beings suffer,
they torture one another,
they get hurt and get hard.
No poem or play or song
Can fully right a wrong
inflicted or endured.

The innocent in goals
Beat on their bars together.
A hunger-striker's father
stands in the graveyard dumb.

The police widow in veils
Faints at the funeral home.

History says, Don't hope
on this side of the grave.
But then, once in a lifetime
the longed for tidal wave
of justice can rise up,
and hope and history rhyme.

So hope for a great sea-change
on the far side of revenge.
Believe that a further shore
is reachable from here.

Let the World Justice Project bring about a great 'sea-change' that puts rule of law and protection of human rights at the heart of every government, and on the side of the poorest and most marginalized, so that 'hope and history rhyme'!

Thank you.