

WORLD PEACE THROUGH INTERNATIONAL LEGAL CONSENSUS *

by
Chief Justice EARL WARREN

I bid you welcome to my country and to our Nation's capital city. Especially do I welcome my colleagues of the high courts of nations and judges of international courts who are our honored guests, this being our first meeting together on a world-wide basis. I have met many of you in my travels and look forward in renewing the warm friendship thus created. And I am certain many new friendships will be born here among those of you whom we meet for the first time. May I say that anything I or my colleagues in the Supreme Court of the United States can do to make your visit more pleasant and fruitful will be done.

We of the law are gathered here from the four corners of the earth to make our personal contributions to a program to help achieve mankind's greatest need—world peace. We come from more than 100 nations. Collectively, we live under all political systems, adhere to all religions and creeds, use all languages, and are composed of all races; yet we possess a common core of understanding which springs from universal ideals of fairness and reasonableness which are inherent in the principles of the rule of law. Thus the rule of law gives us a "common language" which bridges our differences and enables us to work together on the great task for which we are assembled.

The control of force in international relations is the paramount problem of our day. I believe that the legal profession has a unique contribution it can make to the solution of that problem. The lawyer's skills in problem solving, the judge's experience in deciding leadership of all elements of the law in public affairs are sources of strength we must draw upon as we face up to our challenge and responsibilities.

Our task at this Conference is to move humankind forward along the road to peace. We will do this by counseling together upon concrete steps to strengthen existing rules of law and existing judicial institutions. We will do this also through the formulation of ideals for new rules and new adjudicating institutions.

* Address delivered by Chief Justice of the United States Earl Warren at the inaugural session of the Washington World Conference on Peace Through Law, September 13, 1965.

This year has been designated International Cooperation Year by proclamation of the UN General Assembly—a year “to direct attention to the common interests of mankind and to accelerate the joint efforts being undertaken to further them.” No more important common interest exists than our shared interest in a world ruled by law; for mankind’s most practical hope for world peace lies in an orderly world community under the rule of law.

We live in an era in which concentrated research involving world-wide exchanges of knowledge and experience in the physical sciences has brought dramatic achievements.

When the scientists split the atom, their success was the end result of the combined cumulative research of men of science from throughout the world. The knowledge and experience of these thousands of scientists was used to achieve this great goal. Centuries of hard work were thus finally crowned with success, and a seemingly impossible result was thereby accomplished.

My thesis is that we can and must accomplish our objective in like manner. But our approach must be different. Instead of breaking society down to its most minute elements, we must bind it together into a viable whole. Achieving and maintaining a rule of law strong enough to regulate actions of nations and individuals in the world community is no more dreamy, impossible or impracticable than was the idea of splitting the atom, or putting a man on the moon, or sending a missile to Mars a few years ago. I believe we of our generation can translate the centuries-old dream of a world ruled by law from dream into reality. In part, my belief is based upon the imperatives of our day which make this a necessity to save mankind from nuclear holocaust. In part, my belief is based upon the fact that there is more law and judicial institutions today, nationally and internationally, than ever before in the history of mankind. Given this knowledge and reliance and taking note of the necessity that we succeed in order to survive, I would like to comment upon factors we possess which should enable us to move forward in our quest for a world ruled by law.

First. We know more about law in the world internationally and within nations than any other generation of the legal profession. There is an ever-growing world-wide dialogue among men of the law which is making itself a factor in world affairs. Human unity and interdependence of men and nations upon each other have reached such a degree that none of us can remain ignorant or indifferent to what is happening in law in other nations or in international organizations. Because of the faster and more comprehen-

sive communications which now exist we know more about the basic facts of the law systems and judicial systems of the world than ever before.

This is not to say our knowledge is as complete as it should be, but only that it is greater than in the past and is continuing to grow. Through exchanges of new books, law journals and other media, we are learning more about law and justice all over the world. In the field of law, we will soon be able to bring the totality of man's legal knowledge and experience to bear on our task of creating enough law and enough judicial agencies to enable the world to operate under the rule of law.

Second. More and better law exists today in each nation than even before. All recent surveys prove this fact. Nearby every nation is reforming, updating and expanding the rule of law within its borders. This tremendous ferment and growth in the field of law on a global basis is the response by the law to the great changes which are the hallmark of our day.

In England they are doing a major overhaul of their ancient criminal laws, as are we on many subjects. Newly developing nations have new constitutions and new law codes. Many illustrations could be cited nation by nation. The most obvious development is the expansion of protections for the individual, a response to the universal striving for human dignity and freedom.

As we learn more about the law systems of other nations, our respect is increased for some of the improvements many nations have made in such fields as criminal law, family law, commercial law and others. By exchanging ideas and experiences on a world-wide basis we will enable ourselves to perform a better service in our respective nations.

We must get to know each other as well as to know each other's law because from personal friendship we can forge links of great worth to the people we serve and provide continuous contacts for further collaborations on matters of mutual interest.

The unique Exhibit at this Conference of great historic and current instruments of law gives us an opportunity to share the law heritage upon which we must build the world of law we seek. These great documents like the Magna Carta, the Code of Justinian, the Declaration of Rights of Man, the Code of Napoleon, the UN Charter, and many others of even earlier times which are on display, lend a glowing inspiration to our meeting and our work together.

When such an Exhibit for this Conference was suggested, it was with the thought that this common heritage of the law would give

impetus to our work by spotlighting the ideals we have in common, thus minimizing our differences. It was an acknowledgment that we, a young nation, honor the older nations for their contributions to the laws and institutions which we cherish.

Third. More international law exists today than ever before. The pace of discovery and invention has forced this rapid development of law. In the past 20 years, the UN and its specialized agencies have spurred, spawned, updated or sponsored more international law and legal institutions than was created in all human history. In the preoccupation with some of the more divisive problems of the United Nations, we sometimes overlook the law that has been generated by it. But when one takes an inventory of what has happened, this growth of law and legal institutions stands forth as conclusive proof of how tremendously valuable the UN has been, and is today.

The United Nations has updated such ancient world law as the Law of the Sea and the Law of Diplomatic Immunity. It has drafted new law on subjects such as the nuclear test ban, human rights, space, aviation and communications. The new law and the new legal institutions which the UN and its specialized agencies have brought into existence are tremendous in their scope and volume.

In aviation, for example, there is a world-wide regulatory agency for rates and one for safety operations. There are also agencies for decision of airline disputes and law rules relative to a veritable host of related needs like weather, customs, and accidents on the ground and in the air. Domestic law on aviation in nation after nation complements international aviation law, and together they form an excellent example of how wise it is to develop each in step with the other.

Regional agencies under the UN, and non-UN agencies like the European Common Market and the recently-born South American and Central American Common Markets, are also creating a vast volume of new law and new law agencies. By necessity the interdependent nations and peoples of our day are demanding the creation of new rules of law to govern and guide their ever-accelerating international trade, travel, investment and other relations—new transnational law for both men and nations.

Above all, one must note that in every field, on every subject, where law and judicial agencies are in existence they are working well and their acceptance and use are at an all-time high. That law which is adequate will work where used internationally is easily proved. Those relations of men and nations now amply covered by

world law provide this proof. I cite the Law of the Sea, the Law of Diplomatic Immunity and the Postal Convention. For relations and contacts in those fields operate smoothly under law rules that are well-nigh universal because so many nations are parties to those treaties.

If we had hundreds of other subjects covered by such universally accepted law rules, frictions and disputes would be lessened and world peace through law would be within reach. Our great task is to draft and sell to the peoples and governments of nations the hundreds, perhaps thousands, of agreements needed to cover in an adequate manner transnational relations of men and nations. And the most certain fact is that, with the ever-growing increase in international trade, travel, and other contacts, the number of such agreements needed for this purpose will increase greatly in the years ahead. We must therefore set up law drafting, law creating procedures, and methods to meet this obvious need.

Fourth. International judicial bodies have grown in number and use. We have a World Court (International Court of Justice) whose use and prestige are increasing constantly; in fact there is a growing tendency in treaties to expressly provide for jurisdiction of the World Court over disputes involving their provisions. I am happy to know that the distinguished Chief Justice of the World Court will soon follow me to this podium. The European Court of Justice has had brought before it more than one thousand international cases arising out of the functioning of the European Common Market. The Conciliation Commission of the European Human Rights Courts has considered, mediated, or dismissed over two thousand complaints, making it necessary for the Court itself to consider only two cases.

Many UN and non-UN international agencies have quasi-judicial bodies as a part of their legal structure to which governments and individuals may take disputes for decision under prescribed law rules. Last year the use of international arbitration bodies in the commercial area reached an all-time high. The World Bank's recent proposed Convention to create a world dispute center to provide judicial arbitration and conciliation panels to decide commercial disputes over foreign investments will accelerate this use of international adjudication many-fold.

Domestic courts, too, are increasingly called upon to decide international law questions. My own Court has recently decided such questions as whether to uphold the "law of the flag" and the "act of state" doctrine. I am sure that you judges of national courts

are having similar experiences, the exchange of which among us will add to the value of this Conference.

Fifth. The rapid expansion of the scope of international law and the expansion of the jurisdiction of international judicial institutions to encompass rights and protections for the individual have brought to this field thousands of new supporters. While fully recognizing that traditionally international law and its institutions have been largely confined to governmental relations among nations, we cannot blind ourselves to the impact of this new and growing constituency, who out of self-interest, are demanding that international law be developed to meet their needs as individuals.

The individual of our day trades and travels on a world-wide basis and feels the necessity for law to govern, guide and protect his constantly increasing relations with his fellow man in other nations. The European Court of Justice for the European Communities and the European Human Rights Court both allow individuals to bring cases before them. Most of the new international courts now proposed would allow individuals to appear before them, and much of the new world law of recent years has as its main object the needs and desires of the individual.

Sixth. We are re-examining traditional concepts of international law in the light of the world of today, not only as to applicability of international law to individuals, but in an attempt to insure that international law of our day takes into consideration the history, traditions, customs and needs of newly independent and newly developing nations. Thus the gap between East and West is being bridged. New International Law is being created which is acceptable both to lawyers and the peoples of the East and West because it is a molding of the ideas and ideals of all mankind.

Seventh. Heads of state and other leaders of nations are giving more and more attention to world law and are resorting to it with increasing frequency in their dialogue among themselves in their conduct of foreign affairs. In part, this is because more international law exists and it, therefore, offers an excellent starting point for many efforts in foreign relations. Nearly every dispute between nations today begins with a citation by both sides of alleged rights or claims under international law.

At this Conference and previous Conferences leading up to this meeting, more than 100 heads of state have sent messages stating their adherence to the idea of a world rule of law. I believe that this increasing interest in and increased reliance on world law by gov-

governmental leaders is a relevant fact as we consider the road to peace through law.

Eighth. The peoples of the world are more and more aware of the promise and potential of a world ruled by law. This is shown by reports in news media and publications on a world-wide basis. One finds that religious, scientific and other organizations in their resolutions and statements more and more are urging a world rule of law. True, they ask for it in wondering sort of way without specifying the steps to achieve it. But discussions, arguments, speeches and debates on this subject all tend to educate both lawyers and laymen on the value of law in the search for ways and means of achieving and maintaining world peace. Law, in ultimate thrust, is the end result of conferences, discussions, diplomacy, resolutions and other public consideration. Especially valuable in building world law is public enlightenment, education, interest and support. All world law must result from international cooperation and agreement by nations and leaders of nations will hardly agree to any treaty or convention unless their people want them to agree. That is why I commend my colleague Chief Justice Yokota of Japan for his proposal of WORLD LAW DAY which has resulted in so much international public attention being focused at this very moment upon world law and its promise and potential.

Ninth. Judges, professors and lawyers of the world are becoming organized to take advantage of the facts I have just enumerated. This organized strength of the legal profession helps make possible a break-through in the growth and development of world law parallel to those in science and other disciplines. We are learning to think and act globally for the first time in history. We can no longer await the slow and episodic growth over the centuries as was the case, for example, of the law of the sea. A more speedy and orderly process is essential and is evolving out of necessity.

This is only the second World Conference of the legal profession attended by delegates from more than 100 nations. The reports, addresses and discussions at this Conference will demonstrate the value of the organized effort thus far generated. The igniting of ideas on an international basis, the bringing to bear of this assemblage of manpower and brainpower on what to do and how to do it are all exciting new advances toward our towering goal of a world rule of law.

Tenth. This historic world gathering of Chief Justices and High Court Judges is also a plus factor in the movement toward world peace through law. As in the case of law and lawyers, we have

more courts and more judges than ever before in all history both nationally and internationally.

Since one objective of the world peace through law program is to have legal disputes decided in courts rather than by violence, we who devote our lives to deciding such disputes may be able to make a major contribution to this quest for peace under law. Just what our role should be in this program is yet to be developed but we should make a beginning here at this Conference. Perhaps we can begin to define the proper role for judges in this great effort by a frank exchange of ideas on this subject at our joint discussions. I feel certain that we can evolve a role for judges that is proper, beneficial and adequate as our contribution to the great need which exists.

Knowledgeable observers of the development of law in the world community agree with the obvious conclusion which flows from this recitation of the incontrovertible facts describing the ever-accelerating expansion of the field of law. In every instances where the law is plentiful and strong enough to be effective, it works well.

This story of the law's dramatic growth is not intended to present the rule of law as a panacea for peace or as creating a Utopia in ultimate thrust. Nations are run by men, and differences and disputes are inherent in human nature. The rule of law in a nation or internationally does not end all disputes or prevent the breaking of the law. In its simplest form, a law system is a set of rules to govern and guide human conduct so as to avoid conflicts and a court system for peaceful decision of the inevitable disputes that will arise.

No law system is put forth as providing perfection. Perfect justice is an ideal we all strive for but never quite accomplish. But the lesson of history is that when law systems and court systems become adequate within nations they do provide order and peace. When such systems are developed for the world community, they can and will perform the same service internationally. The international law that exists already is a force for peace and as we strengthen and expand it the occasions for disputes leading to war will lessen.

My message is one of hope and accomplishment—a report of achievements in the field of law which are clearly preludes to great advances—advances which will benefit the status of all peoples by advancing the cause of peace. The law is on the march everywhere. We now have a sound foundation upon which to erect a more complete rule of law for the world community.

We are matching our words about a world ruled by law with a program to give them substance. That the task is not easy and

that it requires years of dedicated effort should make us determined rather than fainthearted. For success in our ultimate program means we will so harness mankind's newly developed power under the rule of law that it will be used for man's benefit rather than be used for his death in nuclear holocaust. The only provable harness for the peaceful containment of power yet developed by the mind of man is the rule of law.

I for one believe we can create just as mightily in the law field as our scientific brethren did in the field of science. We can, because we must, create sufficient law to prevent use of the awesome power of the atom to destroy man and civilization.

It is now time for us to get on with our task. Certain it is that no man or woman can engage in a greater enterprise, for it is no less than a joint endeavor to save humankind from extinction by creating a world order under law wherein all men, women and children everywhere can live in peace and decency.