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On behalf of the Government and the people of Australia, it is a great pleasure to welcome you to the beautiful city of Sydney for this most important conference. Over the next five days, more than four thousand of the world's leading lawyers from some 128 nations, representing many different legal systems, will bring your intellects and professional experience to bear upon an impressive variety of topics, across the whole range of private law, public law, and legal practice. I am delighted, in particular, that our international visitors will have the opportunity to hear from so many distinguished Australian lawyers, including current and former members of our High Court and other superior courts, many of this country's leading legal scholars and practitioners, as well as our much-loved former Governor-General Dame Quentin Bryce and our distinguished former Prime Minister John Howard.

It is fitting that the week's proceedings should culminate on Friday with a symposium on the Rule of Law, for it is the rule of law, and the obligation of lawyers to it, that I want to make the focus of this evening's keynote.

Ever since the Constitution of the International Bar Association was adopted in February 1947, it has numbered among its principal objects the promotion of "the administration of justice under the rule of law among the peoples of the world." This month marks the seventieth anniversary of your first international conference in New York City. That first conference convened in the recent memory of the most devastating war the world had ever known, and in the shadow of the division of Europe between the free nations of the West and the Communist dictatorships of the East, which was to last for more than four decades. Yet it was also a time of optimism and hope. The peoples of the world had lately adopted the Charter of the United Nations, and the General Assembly had held its first session the year before. The following year saw the adoption of the Universal Declaration of Human Rights, whose preamble recited the necessity of human rights being "protected by the rule of law".

Today, as in 1947, the global order faces ominous challenges which threaten its stability and imperil the institutions of nation states. Among them, we may count the emergence of a globally-ambitious form of Islamist extremism whose weapon of choice is terrorism and whose declared purpose is the destruction of the very institutions from which free societies are built. We see, particularly in east Asia, the willingness by some nations to defy the international rules-based order upon which post-war stability has depended; and the development, in the nations of the West, of an aggressive populism – a reaction, perhaps, to the real or perceived arrogance of political, economic and cultural elites – which threatens both the human rights of many their own citizens and the legitimacy of the liberal democratic model of governance itself.

Increasingly sophisticated international criminal syndicates, enabled by the latest technology and protected by encrypted communications, pose unprecedented threats to law and order. Meanwhile, the ambition and behaviour of supranational technology giants presents challenges both to the sovereignty of nations and the privacy of their citizens.

These phenomena are all, of course, problems of profound political, cultural and strategic importance; to deal with them is the work of political leaders and of governments. But they also, in their various ways, challenge the rule of law itself – whether international law, or the domestic laws and institutions of nation states. And so, they are of concern to lawyers as well, and lawyers – as the custodians and guardians of the rule of law – have obligations too.

And, just as the various phenomena to which I have referred threaten the rule of law, so must we, as citizens and more particularly as lawyers, be careful to ensure that our governments' reaction to them is both effective and appropriate, so that it does not itself compromise the very rule of law which we seek to defend. In protecting our people from terrorism, for instance, we must be careful to ensure that our legislative and policing response is at all times consistent with our values and obedient to the rule of law, even if, on occasions, that may constrain what our law enforcement authorities can do. That is the price we pay for being democracies; but our very character as human rights-respecting democracies is itself a source of greater strength. As the former President of the Supreme Court of Israel, Aharon Barak, famously said in 1999:

“Although a democracy must often fight with one hand tied behind its back, it nonetheless has the upper hand. Preserving the rule of law and recognition of an individual's liberty constitutes an important component in its understanding of security. At the end of the day they strengthen its spirit.”

Nevertheless we, as lawyers, must always be alert to ensure that due process is always observed, that the right of access to the courts is never denied, that the role of lawyers in representing their clients is always respected, that judicial power is not subordinated to executive discretion, and that ministers and officials always respect the rule of law and the authority of the courts as the ultimate arbiters of the rights of citizens. Your role, as defenders of the rule of law, is never more important than at a time when there are, understandably, demands for greater state power in service of the protection of the security of

our nations and the safety of our peoples. It is possible, with careful and measured policy responses, to serve both objectives. We in Australia have worked hard, and on a bipartisan basis, to resolve the security challenges posed by those whose ambition it is to destroy our societies, in a way which respects the rule of law and the rights of the citizen.

As Australia's greatest lawyer-statesman, Sir Robert Menzies, wrote many years ago, during a time of war:

“Do not let us begin to think lightly of the law. Its rule, its power, its authority are at the centre of our civilization. ... If the day is to come when the courts are to be closed to the aggrieved citizen, when the King's writ is not to run because popular uproar wills it so, when the appeal to the law is to be an occasion of scoffing, then that day will cast a black shadow across [our] freedom.

It is important to remember that to defend the rule of law is not to take a particular philosophical view. The rule of law is not an ideological concept, although its authority has been claimed by both sides of the ideological contest. Thus, the Marxist historian E P Thompson, described the rule of law as “an unqualified human good”. Yet, in the eyes of many conservative thinkers, the rule of law is an essentially conservative concept, reinforcing as it does the stability of existing institutions.

In truth, the concept of the rule of law is a neutral set of principles based upon rationality. As the great twentieth century American legal scholar Lon Fuller pointed out in his Storrs Lectures to Yale Law School in 1963, later published as *The Morality of Law*, regardless of the political culture within which it operates, any rules-based system for the adjudication of disputes entails certain essential common characteristics. These include generality, transparency, consistency and practicability. Those characteristics may seem obvious, yet they have important consequences for the way in which the law may be applied. So the requirement of generality – that the same laws apply to all – carries with it the necessary implication of equality. The requirement of transparency is also a prohibition against arbitrariness. The requirement of consistency demands that like cases be decided alike. Practicability means that laws must be capable of obedience by the citizen, which is a protection against oppression. And the very concept of a legal *system* involves that disputes are to be resolved according to a process known to and binding upon the parties, which enjoins procedural fairness. And so, as Fuller maintained, the very rationality of a legal system implies a kind of internal morality which a layman would recognize as justice.

All of you gathered at this conference have dedicated your professional lives to the law – whether as practitioners, judges, scholars, officials or in other capacities. All of us have a bred-in-the-bone understanding of the concepts of which I have spoken. To defend them is integral to our sense of our own professionalism. Sir Owen Dixon, who many think was Australia's greatest chief justice, spoke of the nature and obligations of professional men and women thus:

“It is the essence of a profession that its members master and practice an art. The art must depend on a special branch of organized knowledge and be indispensable to the progress or maintenance of society, and the skill and knowledge of the profession must be available to the service of the state or the community. Experience has shown

in every age that a profession cannot proceed without high professional standards. Special knowledge is always suspected by those who do not share it. Unless high standards of conduct are maintained by those who pursue a profession requiring great skill begotten of special knowledge, the trust and confidence of the community that is to be served is lost and thus the function itself of the profession is frustrated.”

However the professional obligation of lawyers involves more than merely providing a service to clients by advising or representing them in legal matters. It goes beyond that. It extends to upholding and defending the legal system itself, and paramount among them is the rule of law, and the values implicit within it.

Upholding the rule of law may involve lawyers in controversy. Often, it may mean standing up to the powerful, or defending the vulnerable, the marginalized or the despised. Lawyers who do so serve the finest traditions of our profession. Let me mention a few recent examples. In July, the Supreme Court of Pakistan disqualified the Prime Minister, Nawaz Sharif, on the ground of various allegations of dishonesty, while referring other and more serious allegations to Pakistan’s anti-corruption body. Later this week, you will be discussing the work of South American lawyers waging the fight against corruption in the “Car Wash” case in Brazil – which has been described as the largest anti-corruption case in history – and similar cases elsewhere in Latin America. In South Africa last year, the Constitutional Court unanimously upheld a suit brought against the President alleging the improper expenditure of public funds for his personal benefit. There are, unfortunately, many other examples across the world. One thing they have in common is the courage of lawyers and investigators in their willingness to confront – and bring down – the powerful and, in doing so, asserting the primacy of the rule of law.

And as those examples also show, the rule of law is not a Western concept, it is a universal one. As the Prime Minister of Japan, Shinzo Abe, pointed out when opening the 2014 conference of the IBA in Tokyo three years ago:

“The ‘rule of law’ is by no means limited to the West. From ancient times there were also similar concepts in Asia. The essential nature of the ‘rule of law’ is that power is not absolute. Rather, the law is a moral presence that exists above power; a presence that power must serve and by which power is bound. . . . In all human societies there is always the law, and power is always the servant of the law.”

I have spoken this evening of the unique role of lawyers as defenders of the rule of law – always important, but even more acutely so today at a time when our institutions are under pressure from the various forces which I have described, and our political leaders are charged with the burden of devising appropriate and proportionate responses to those threats. But let me also sound a note of caution. In defending the rule of law, it is important that lawyers not fall prey to the temptation – to which those possessed of specialist knowledge are sometimes susceptible – of believing that they are thereby also possessed of a unique wisdom when it comes to public affairs. Defending the rule of law does not mean subverting democratic decision-making. It does not mean privileging lawyers above elected officials or, for that matter, electors. It does not mean succumbing to the conceit of one high-profile former judge

in this country who once foolishly wrote that “democracy is too important to be left to professional politicians”.

It does mean, however, that the decisions of those to whom the public have entrusted the democratic mandate, must always be subject to appropriate legal scrutiny; that their decisions are contestable not merely from a policy point of view, in the legislatures, but from a legal point of view, in the courts; and that those who exercise executive power must always accept that they are subject to, and must always be respectful of, the supremacy of the law. And in that process, as the custodians of the rule of law, the role of lawyers is essential.

I wish you well in your deliberations this week. I trust the days ahead will be intellectually nourishing, and that you will find time, as well, to enjoy the pleasures of this glorious city. In all that you do, I am sure you will be inspired by the same high purposes which, more than seventy years ago, caused the bars of the world to create this important international institution. And it is my particular hope and belief that, at this time when the rule of law faces so many challenges, you will always be vigilant to defend and protect it, as you serve, with professionalism, skill and commitment, the high calling to which all of us are dedicated.