

**DEDICATION OF THE ERIC E. HOTUNG
INTERNATIONAL LAW CENTER BUILDING:
KEYNOTE ADDRESS**

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This is a very happy occasion indeed. And I'm glad that as a neighbor I was invited to come over and share this day with you. Georgetown University Law Center is our nation's largest law school. It is consolidating its broad international law programs under one roof in the new Eric E. Hotung International Law building. This law school, which is located in our nation's capital, already has one of the most comprehensive international and comparative law programs in the world. It has at least twenty-two talented faculty members focused on these areas. Students from at least seventy-one countries are enrolled here in the international programs. Alumni of this law school live all across the globe, and the law school is already home to many diverse programs in the international area. In short, Georgetown University Law Center is now situated to be the leading global law center in this country and perhaps in the world. No wonder this is a special day.

International law has emerged in ways that affect all courts here and abroad. The reason is globalization. Its importance should not be underestimated. Thirty percent or more of our gross domestic product is internationally derived. We operate today under a very large array of international agreements, treaties, and organizations: the United Nations Convention on Contracts for the International Sale of Goods, the North American Free Trade Agreement, the World Trade Organization, the Hague Conventions on Collection of Evidence Abroad and on Service of Process, and the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, to mention only a very few. But globalization is much more than just these agreements and these organizations. Globalization also represents a greater awareness of and access to peoples and places far different from our own. The fates of nations are more closely intertwined than ever before, and we are more acutely aware of the connections. As we learned in this country on September 11, 2001, these connections can sometimes be devastating rather than constructive. But as we are also learning in the post-September 11 world, the power of international cooperation and

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international understanding is much greater than the obstacles we face.

The term "international law" is used loosely to describe different things. It includes public international law, that is, the law regulating the intercourse of nations. It also includes private international law, the laws and choice of law rules governing cross-border activities of individuals, corporations, and other entities. And the study of international law deals with other activities and regulations such as domestic statutes with extraterritorial application, cross-border coordination of regulatory schemes, the recognition of foreign judgments, and the treatment of aliens by our own and other countries.

Finally, under our Constitution, treaties made by our country constitute part of the supreme law of our land. International law stemming from these various sources is at least a concern for the lawyer counseling her client on issues ranging from commerce to the environment, family law, human rights, immigration and intellectual property. International law is no longer an issue only for diplomats and trade lawyers. With increasing globalization, international law affects business and litigation decisions across the board. And lawyers in their role as counselors must recognize potential international law issues even when they show up in unexpected contexts.

Last term, by way of example, our Supreme Court decided six cases presenting international law issues. The cases we resolved included interpretation of a treaty, the Warsaw Convention on Air Travel and Transport. We also interpreted United States statutes touching on international law issues, such as the Foreign Trade Antitrust Improvement Act, the federal statute authorizing discovery in aid of foreign proceedings, the Foreign Sovereign Immunities Act, and the Federal Tort Claims Act. Finally, parties discussed, as well, the effect of international law in cases about the application of the writ of habeas corpus to detainees in Guantanamo Bay. These issues are only the tip of the iceberg of such international law issues in both federal and state courts. Most such disputes are resolved by the federal and state courts without ever reaching the Supreme Court. And many international law disputes are resolved in proceedings with private arbitrators, mediators, or various international arbitral bodies.

This is an interesting time in world history. For one thing, for the first time there are now democratically elected governments in more than half of the countries of the world, approximately 120 by last count out of 190 nation states. Even in countries which do not have democratically elected governments, there are of course laws, legal systems, and judicial systems. Law is basically a formal expression of society's agree-

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ment on basic principles by which we will conduct ourselves in relation to others. It is the way in which we express the ideals of our respective societies.

The great gift to the western world of law from the Magna Carta in 1215 was the notion that no person, including the sovereign, is above the law and that all persons should be secure from the arbitrary exercise of the powers of government. The Magna Carta is the legal ancestor of the concept of rule of law. And with the breakup of the Soviet Union we've had a sudden expansion of nation states trying to establish democratic societies under the rule of law. The rule of law and the ideals it enforces exist in only part of the world today. Since September 11 we've been reminded that other parts of the world do not share our notions of the rule of law or the notion that it is the key to liberty. But it seems to me that, at every level, every nation state must have relations, commerce, and dealings with other nations and with businesses in other nations. There is inevitably the need for the resolution of international disputes, and law will follow because the world community increasingly regards the shift away from cronyism and towards the rule of law as a prerequisite for doing business.

The classic statement about how and why international law developed was made some years ago by Louis Henkin. It bears quoting:

Every nation derives some benefits from international law and international agreements. Law keeps international society running, contributes to order and stability, provides a basis and a framework for common enterprise and mutual intercourse. Because it limits the actions of other governments, law enhances each nation's independence and security. In other ways, too, by general law or particular agreement, one nation gets others to behave as it desires.¹

And just as we have said in this country since the *Paquete Habana* case, "international law is part of our law."² International law, which is the expression of agreement on some basic principles of relations between nations, will be a factor or a force in gaining a greater consensus among all nations concerning some basic principles of their relations with one another. It can be, and it is, a help in our search for a more peaceful world. Acting in accord with international norms may increase the

1. LOUIS HENKIN, *HOW NATIONS BEHAVE* 29 (2d ed. 1979).

2. *The Paquete Habana*, 175 U.S. 677, 700 (1900).

chances for development of broader alliances, or at least silent support from other nations.

The efforts that Georgetown University Law Center makes to educate law students from this country and abroad about international law are efforts well spent. Programs such as this law school provides also are important if the American legal profession is going to take seriously the realities of practice. Not only the ways in which transnational legal issues must be addressed, but also the potential for using the law to make a difference in the issues facing our world. The need for lawyers in these difficult times has not decreased, it has increased. Because of the scope of the problems we face, understanding international law is no longer just a legal specialty. It is becoming a duty, and the continued efforts of academic specialists in international law are vital if practitioners as well as judges are to faithfully discharge their duties. International law is one of the few legal issues that can be resolved, in part, by expert testimony. Those expert witnesses are frequently scholars in international law. Judges and practitioners called upon to apply foreign law in choice of law cases often must rely on academic assessments of unfamiliar legal regimes. The trustworthiness and authority of those secondary sources are of vital importance to the administration of such cases in our courts. Educational efforts that will improve and assure high quality briefs and materials submitted by litigants and by friends of the court will be welcome indeed.

Congratulations to the Georgetown University Law Center and to Ambassador and Mrs. Hotung for putting into operation the Eric E. Hotung International Law Building and its multiple programs. The location right here in our nation's capital and so near the Congress and the federal courts is particularly helpful. You can be sure that you will contribute greatly to the enhancement of the rule of law throughout the world, and I look forward to many contacts with you in these areas in the years ahead. You will be a very good neighbor indeed.