Foreign & Commonwealth Office (UK)

International law and justice in a networked world

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CHECK AGAINST DELIVERY

It is an honour to be here: in a country that has done so much to develop the international legal order; in a city that is the leading address for international justice; in a hall that was once itself a court; and in the company of many distinguished legal practitioners including the Presidents of the Tribunals and the new Prosecutor of the International Criminal Court.

I am also grateful to my colleague Foreign Minister Rosenthal for his kind words and warm reception. We are very lucky to have the Netherlands as such a reliable, like-minded and trusted friend, and I thank Uri for his part in that.

Some people may wonder why I have chosen to speak about international law and justice today.

This subject is more commonly the preserve of lawyers, academics and justice Ministers.

But there are three compelling reasons why I think it is important to speak about it as Foreign Secretary, and to do so now.

The first is that justice and international law are central to foreign policy.

The rule of law is critical to the preservation of the rights of individuals and the protection of the interests of all states.

To borrow Erasmus's words, justice "restrains bloodshed, punishes guilt, defends possessions and keeps people safe from oppression".

It is the common thread binding many of the pressing issues we face, from building peace, widening democracy, and expanding free trade, to confronting terrorism while upholding the law and respecting human rights.

We have learnt from history that you cannot have lasting peace without justice, accountability and reconciliation.

The Arab Spring has shattered the idea that nations can maintain long-term stability and prosperity without human rights, political participation and economic freedom for their citizens.

And international laws and agreements are the only durable framework to address problems without borders, from protecting our oceans to tackling terrorism and cyber crime.

Such agreements - if they are upheld - are a unifying force in a divided world, and they underpin our collective security.

That is why the UK attaches such importance to securing a Global Arms Trade Treaty this month that is robust and legally binding; that covers all types of conventional weapons including small arms, light weapons and all types of munitions, and that contains strong provisions on human rights, humanitarian law and sustainable development.

It is also why it would be so damaging to peace and security if Iran were to develop a nuclear weapons capability, despite being party to the Nuclear Non-Proliferation Treaty. It would undermine the viability of this essential Treaty, and could lead to a new Cold War-style confrontation in the Middle East. A peaceful diplomatic solution, which we seek through negotiations, would respect Iran's right to peaceful civil nuclear energy, but only if we can be confident that Iran is not seeking and will not seek nuclear weapons. Iran must be willing to negotiate seriously and to take concrete steps to demonstrate positive intentions. If it does not, the pressure and isolation it faces will only increase.

My second reason for giving this speech is our growing reliance on a rules-based international system.

We are far more vulnerable today than we ever have been to threats that no one nation can address alone, while our economic ties to other nations grown ever more complex. So we depend more and more on other countries abiding by international laws and agreements.

Despite this, the international community still has a tendency to fire-fight international problems one conflagration at a time.

We need to strengthen the international awareness and observance of laws and rules that are our best means of preventing the flames from bursting forth in the first place, or of beating them down before they spread and cause irreparable damage.

We need to work to bridge the gap in thinking and policy between Western democracies and some of the emerging powers on the protection of human rights overseas. Some of these nations have a strong record on human rights and democracy at home, but do not agree with us about how to act when human rights are violated on a colossal scale abroad. Other powers do not subscribe to the basic values and principles of human rights in the first place.

We can see the consequences of a divided international community very clearly in Syria.

Once again, the world is being called upon to stop a state-sponsored killing and torture machine, which has already claimed thousands of victims, and to end a vicious cycle of

violence. So far our efforts have not succeeded.

The international community came together in an unprecedented way to address the crisis in Libya last year. The Arab League, the UN Security Council, the UN Human Rights Council, the European Union, NATO and the International Criminal Court all stepped forward and played their part to protect a civilian population.

In Syria we are seeking tough, concerted diplomatic intervention rather than a military response. For we believe that if the full weight of the Security Council were to be put behind Kofi Annan's plan for a political transition and then was enforced by the international community, it would lead to an end to the violence and a political settlement on the ground. We will continue to try to work with Russia and China to achieve that, but if the Kofi Annan plan fails no option to protect lives would be off the table.

In the short term, the people of Syria are paying the devastating price for the lack of international unity. But in the longer term, the security and interests of all nations will be weakened by it. Looking ten or twenty years ahead, such strains are likely to grow and could undermine the international rules-based system if we do not begin to address them now.

There is no easy answer to these questions. But my argument today is that the overriding missing ingredient is political will:

The will to devote diplomatic resources to preventing conflict: giving early attention to crises, binding countries into peaceful solutions, being prepared to use force as a last resort in accordance with the UN Charter, and showing the strategic patience not to abandon countries which have emerged from war. We have to ensure that when we are trying to build peace, we don't overlook the need for justice.

We also need the will to deter leaders from committing crimes through fear of international justice, and if that fails, to hold those responsible to account. This includes determined efforts to apprehend fugitives from international justice.

We need new commitment from nations which are not party to international treaties to join them, in particular the principal UN conventions on human rights, and those that are party to them should feel greater pressure to live up their responsibilities.

And of course, we also need to muster the will to reform international institutions like the UN Security Council, so that they are more representative while at the same time being effective.

This is a massive task. But it is the need to begin to generate this renewed political will that is the third and final reason why I am giving this speech today.

Our starting point should be a sense of achievement about the past two decades.

There has been a global revolution in accountability. It is an unfinished revolution, but it is unprecedented in history.

We can trace its origins back to the Nuremberg Trials, when Chief Prosecutor Jackson described the decision by the Allied Powers to submit their enemies to the judgment of the law as “one of the most significant tributes that Power has ever paid to Reason”.

But even twenty years ago, impunity for war crimes was still the norm.

Since then we have built the architecture of international justice.

Some of those responsible for appalling crimes have been and are being prosecuted, including Charles Taylor and former members of the Khmer Rouge.

None of those indicted by the International Criminal Tribunal for the former Yugoslavia are free, and many have been convicted.

The International Criminal Court has concluded its first ever trial in the case of Congolese rebel leader Thomas Lubanga, who will be sentenced tomorrow, and is due to issue a ground-breaking decision on reparations for victims. In August Laurent Gbagbo of Cote D’Ivoire will appear for a confirmation of charges hearing, the first former head of state to come before the ICC.

There have been significant advances in international law, such as defining gender crimes and establishing that genocide can be committed through rape and sexual violence.

The tribunals have made an immense contribution to judicial capacity-building. The Rwanda tribunal for example has created a corps of internationally-experienced African judges, prosecutors and investigators.

And we have seen other encouraging developments, including a more robust approach from the UN Human Rights Council. Only last week it established a Special Rapporteur for Eritrea through an African-led resolution, the first time African states have brought forward such an initiative for one of their neighbours.

These and many other efforts have had a profound effect:

The presumption that leaders of nations are immune from prosecution has been eroded.

The idea of sovereignty as a barricade against international justice has been all but eradicated.

And the referrals of leaders in Libya and Sudan shows that not signing up to the Rome Statute cannot be relied upon as a way of avoiding being held to account.

The lesson of the last two decades is that if you commit war crimes, crimes against humanity or genocide you will not be able to rest easily in your bed: the reach of international justice is long and patient, and once set in train, it is inexorable. There is no expiry date for these crimes, so that even if like Ratko Mladic you succeed in evading justice for 16 years, you will eventually be brought to account.

Equally, we have sent the message to victims of crimes that access to justice is their right: if their country cannot or will not take action to accord them justice, there is real hope for redress for the worst crimes.

These achievements are not the product of the history or values of just one part of the world - but of the whole world.

And none of it would have happened without the non-governmental organisations that have driven the global human rights movement: documenting atrocities, rallying public opinion, running campaigns, urging governments to act and monitoring the implementation of commitments.

I am also proud of the role played by British Judges sitting in the Courts and Tribunals based here in The Hague, including Sir Christopher Greenwood, Sir Adrian Fulford, Howard Morrison and Theresa Doherty.

The International Criminal Court and the tribunals are of course far from perfect.

They have been criticised for the length and cost of their proceedings.

And it remains the case that billions of people in 70 countries are still outside the protection of the Rome Statute.

Some of the criticism of the International Criminal Court is inevitable. It is an organisation that is the first of its kind, that breaks new ground with every case and ruling, that is required to cover most of the globe, and that is only ten years old.

The United Nations, by comparison, is 67 years old, and yet we are still talking about the need for urgent reform.

Some of these criticisms are fair and require action. The ICC must ensure that it learns the lessons of its first ten years, to refine its procedures and challenge those who argue that international justice is too costly or lengthy or that it has been solely focussed on Africa. The Court must also continue its efforts to become more efficient, particularly given the financial climate. And, as States Parties, we need to offer the best possible candidates for positions within the Court and help manage its cases.

There are two other criticisms often levelled at the International Criminal Court and the tribunals which I would like to tackle head on:

Some people have pointed to conflicts that have erupted since they were established and argued that they have failed to create a deterrent effect.

But the responsibility for deterrence cannot be laid on Courts. By the time we get to the stage where they can act, the international community has already failed to stop bloodshed in the first place.

The cycle of war is the product of the never-ending capacity of humans to be brutal to the powerless in the pursuit of power or wealth. It is the result of our collective failure to prevent conflict. And it has been fuelled by the uneven application of international law in different parts of the world, feeding a perception that governments that commit crimes still have a chance of getting away with it.

The second charge sometimes levelled at the Courts is that their work complicates the search for peace.

Each conflict is different and there have been times when local or regional agreements have been struck to persuade leaders to leave power. Such agreements may be reached again in the future.

But those - and there were many - who argued that the international community should offer immunity to Slobodan Milosevic, Radovan Karadzic and others like them in order to stop the war in Bosnia-Herzegovina were wrong.

Our coalition Government is firmly of the view that leaders who are responsible for atrocities should be held to account, whether nationally or internationally. Institutions of international justice are not foreign policy tools to be switched on and off at will.

Our challenge now - and it is immense - is to complete the work of the Tribunals, to strive to universalise the Rome Statute and increase the capacities of the International Criminal Court, and to make irreversible the progress that has been made in ending the culture of impunity for the worst crimes.

These are our collective responsibilities and achievements. But I would like to end with a few words about Britain’s own record and our commitment for the future.

We approach this debate with a degree of humility and a consciousness of our own history.

Having profited from and participated in the slave trade for hundreds of years, Britain led the world in abolishing it in 1807 and campaigning to eradicate it worldwide, and in doing so pioneered the introduction of ideas of human rights into the international law of the 19th

century. But it was here in The Hague at the 1899 Peace Conference that Britain resisted calls to proscribe the general use of dum dum bullets, for fear that it would limit the freedom of action of military commanders in the British colonies.

In recent history we have been heavily involved in the forging of agreements to ban cluster munitions, anti-personnel landmines and to stem the trade in conflict diamonds - to take just a few examples. But we have also been drawn into controversy, including allegations of UK complicity in extraordinary rendition, leading to torture and the mistreatment of detainees.

The very making of these allegations undermined Britain's standing in the world as a country that upholds international law and abhors torture. Torture is unacceptable in any circumstances. It is abhorrent, it is wrong, and we will never condone it.

It does sometimes happen that we fall short of our own standards. Mistakes are made. Governments can follow bad policies based on mistaken assumptions, or make poor decisions when confronted by competing priorities or urgent crises. But the test of our democracy is our willingness to shine a light on the mistakes of the past and to take corrective action - as we are doing in many ways including through domestic legislation, independent inquiries, changes to our machinery of government and the issuing of new guidance to our staff.

But there is no doubt where Britain stands: we are with those who say that international law is universal and that all nations are accountable to it, and we do not shy away from accountability to it ourselves.

We are a country that believes in and upholds the Responsibility to Protect, and that is prepared to act to save lives - including through military action as a last resort.

We actively support a rules-based international system. We champion the powerful role the Commonwealth plays to promote the rule of law internationally.

We welcome the European Union's achievements in defending and spreading fundamental freedoms through the enlargement process and by taking a principled stand on human rights from Burma to Zimbabwe.

We are engaged in all six existing international criminal tribunals. We are one of only two Permanent Members of the United Nations Security Council to have ratified the Rome Statute. We are the only Permanent Member to accept the compulsory jurisdiction of the ICJ, and we exercise universal jurisdiction over the offence of torture.

We went to great lengths to ensure that our intervention in Libya had the full authority and backing of a Chapter VII UN Security Council resolution, to minimise civilian casualties throughout our operations, and to work side by side with Arab nations.

And our policies in other areas, such as the fact that we are the only member of the G8 to set out firm plans to invest 0.7% of gross national income as aid from 2013, support human rights and international law across the world.

But we can and will do more.

First, we pledge to recommit to the importance of fighting impunity for grave international crimes wherever they occur.

We will be a robust supporter of the International Criminal Court in its investigations. We will encourage states party to provide the necessary political, strategic, practical and financial support the Court needs. This includes urging voluntary contributions to the ICC's groundbreaking mechanism to help victims rebuild their lives, the Trust Fund for Victims. We donated £500,000 to the Trust Fund for Victims last year and I am pleased to announce that we will match that donation this year. We will also urge states outside the Rome Statute to consider acceding to the Treaty.

Second, we will redouble our calls on all states to cooperate with the International Criminal Court and apprehend those it has indicted. Their names are known - Bosco, Bashir and Kony among them - and they should stand trial for the charges against them. There should be no hiding place or sanctuary for people indicted for crimes against humanity, war crimes or genocide. And states that are not party to the Rome Statute should consider the message they send to the outside world when they harbour or welcome indictees under the guise of regional solidarity. I pay particular tribute to President Joyce Banda of Malawi for her principled stance when she said recently that if President Bashir of Sudan travelled to her country for the African Union Summit he would be arrested.

Third, we will use our role in the European Union, NATO, and the United Nations Security Council to support more effective conflict prevention and the UN rule of law efforts.

We are pleased that the UN General Assembly will hold a landmark event on rule of law on 24th September. We can do more to help countries rebuild their legal systems and develop their economies after conflict, as we are doing in the UK through our own development budget. The event will also help to highlight the ICJ's role as the principal judicial organ of the United Nations, and to encourage more member states to consider accepting the Court's jurisdiction.

Fourth, we will work to build greater consensus with emerging powers on how to translate shared values on human rights into action. In Britain we have made these discussions an explicit component of the stronger bilateral ties we are seeking with a range of countries. We believe that this conversation needs to be widened. I particularly call on NGOs to take up this issue and help mobilise public opinion in emerging powers, since the greatest hope of

influencing government policy lies through an alliance of global civil society and concerned citizens.

And fifth and finally, we will use our international role and diplomatic network to pursue initiatives that support peace, security and human rights worldwide.

Last year we held the London Conference on Cyberspace, calling for agreement on ‘rules of the road’ governing the use of cyberspace, which is also emerging as an area of risk for human rights as well as of criminality that undermines economies worldwide.

This year we hosted the London Conference on Somalia, which brought together more than 50 countries and organisations to pledge more effective support and assistance to Somalia as it strives to emerge from conflict.

We have sent teams to Syria borders to help document human rights abuses, and the activists who uncovered the El-Houleh massacre received training from the United Kingdom. We will support the people of Syria as they seek accountability for the suffering they are enduring today.

And I have also announced a new British initiative on preventing sexual violence in conflict and post conflict situations.

We are setting up a new, dedicated team of experts in our Foreign and Commonwealth Office which will be devoted to investigating and preventing sexual violence in armed conflict. It will draw on the skills of doctors, lawyers, police, psychologists, social workers, gender advisers, forensic specialists and experts in the care and protection of victims and witnesses.

It will be able to deploy overseas at short notice to gather evidence and testimony to support international and national investigations and prosecutions. It will be available to support UN and other international missions, and to provide training and mentoring to national authorities to help them develop the right laws and capabilities.

We will use Britain’s Presidency of the G8, starting on January 1st 2013, to run a year-long diplomatic campaign on the need for stronger international action. We want to encourage others to follow suit, and increase the resources they devote in this area. We want to shift the view that sexual violence is an unavoidable consequence of armed conflict, to ensure that rape and sexual slavery in conflict are not given a lesser priority in investigations and prosecutions than other offences, and to secure an increase in prosecutions.

To conclude, the path to justice can be long and difficult.

It will always be a struggle to define and enforce rules of international conduct that promote the security, prosperity and just treatment of all nations and all people.

But the maximum safety for the greatest number lies in the rule of international law.

Having achieved so much over the last twenty years, we cannot say we have got this far but will go no further. We must continue to expand the frontiers of freedom and protection against human rights abuses. We have to maintain momentum and increase it if we can. We must show political will and commitment in the areas I have described, and demonstrate greater international resolve to prevent conflict, starting in Syria today.

It is a sad truth that the biggest advances in international justice came about because of our revulsion at atrocities: the horror of the World Wars, the killing fields of Cambodia, the premeditated barbarity in Bosnia and Kosovo, the slaughter in Rwanda, and the mass rapes in the Democratic Republic of Congo, all of which were an unbearable affront to the conscience of humanity.

Today, how much better it would be to look ahead and summon the political will to act to prevent conflict and expand human rights without needing to be shamed into doing so by the deaths and suffering of innocent people.

Source: https://www.gov.uk/government/speeches/international-law-and-justice-in-a-networked-world