



LORD CHIEF JUSTICE
OF ENGLAND AND WALES

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LORD CHIEF JUSTICE OF ENGLAND AND WALES

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It is a rare privilege to participate in the introduction to this Global Law Summit on the occasion of the 800th anniversary of Magna Carta¹. In doing so I am conscious that it is all too easy for us to take for granted the contribution that justice makes to our global world and to our respective states.

Our modern economies and increasing prosperity demand a clear and enforceable framework of law, both nationally and internationally.

The maintenance of a just society requires not only the fair trial and appropriate punishment of those who commit crimes, but the resolution of issues that arise ever more frequently as the structure of society changes and medical science and technology advance.

And, the maintenance of accountable government requires a legal system that ensures that Governments deal fairly with citizens and act within the powers provided by just laws, both nationally and internationally.

These are the themes of our summit. We should all therefore be grateful that we have this anniversary to reaffirm our commitment to the centrality of justice, both in our respective states and internationally, by re-examining through these themes what each of us seeks to achieve. For commitment to justice is a personal commitment; one which places on each of us a personal responsibility.

¹ I am indebted to Dr John Sorabji, Principal Legal Adviser to the Lord Chief Justice and Master of the Rolls, for his assistance.

In 1215 no one could have foreseen the significance of what can best be described as a peace treaty between our then ruler, King John, and those rebelling against him. As students of history will know, Magna Carta failed to achieve its immediate aim – but yet has had a profound influence on the development of justice and the rule of law, first in this country, next, as Churchill said, through becoming part of the ‘joint inheritance of the English-speaking world’² and then, through the Universal Declaration of Human Rights, a fundamental part of the common heritage of mankind. That profound influence is particularly expressed in clauses 39 and 40 of Magna Carta which set out two fundamental principles – the rule of law and access to justice:

No free man shall be taken or imprisoned or disseised or outlawed or exiled or in any way ruined, nor will we go or send against him, except by lawful judgment of his peers or by the law of the land.

To no one will we sell, to no one will we deny or delay right or justice.

How do these two fundamental principles relate to the themes of this summit?

Due process under the rule of law

We all now accept the principle that all within a State must not only act in accordance with the law – but also that all are and cannot but be equal before the law and are entitled to due process. But how is this principle to find practical expression in our work at this summit? I can only highlight some issues from the comprehensive summit programme.

In relation to our economic prosperity, we will need to examine how we best ensure that all, whether they be individuals, corporations or Governments carry out all their activities in accordance with established law. How then do we keep the law up to date and use it to reinforce ethical conduct under just laws, for example in ensuring that the internet and financial markets are governed by modern and effective laws and professional regulation? In relation to our societies, how do we ensure that our criminal laws are justly enforced not only nationally but internationally, for example to protect against sexual exploitation, to combat terrorism or to eliminate corruption and

² See W. Churchill, *The Sinews of Peace*, (the Fulton Speech), in R. Rhodes James (ed), *Winston Churchill: His Complete Speeches 1897 – 1963*, Vol. VIII, 7825 (New York, 1974).

the havens for the safekeeping of illegally obtained assets? In relation to accountability, what are the most effective processes to ensure that Government action is scrutinised in a cost efficient and speedy manner for compliance with the law?

Access to justice

We are also all familiar now with the second principle - that all should have fair and effective access to justice. That was not always the case. In parts of the world it is still not the case. And in other parts of the world it remains an aspiration that many are working to realise. One thing that I am sure we can all take from Magna Carta is that our commitment to this ideal is something, that no matter how familiar we are with it, is one that we must constantly reassert, just as Magna Carta was reissued and its demands for access to justice were reasserted over the centuries.

We will therefore examine how access to justice is best achieved – the way government can best provide for a court system that is open, transparent and effective in vindicating and, as importantly, enforcing rights and responsibilities, how a state guarantees a judiciary that will act independently of governmental or commercial pressure, how citizens can be provided with better access to courts through the proper use of modern technology, and the way in which a vibrant, diverse and independent legal profession can best make a cost effective contribution to the delivery of justice.

Not an easy task

None of these issues raised by the two principles of the rule of law and access to justice is easy. Some are very uncomfortable not merely to governments but to others such as corporations with immense economic power. But the task requires a commitment from us all, governments, legislatures, lawyers, judges, businesses and citizens. There can also be no doubt that some will try to obstruct this commitment to the rule of law. To others it will merely be inconvenient. As to obstruction, our duty is clear; the obstruction must be fought against and removed; obstructions to justice are a denial of justice as Magna Carta teaches.

But inconvenience is more of a threat. It can tempt each of us away from a real commitment to the rule of law and access to justice. Inconvenience can, for example,

tempt us to place improper fetters on such access to the advantage of special interests. It can turn our minds away from the increasing financial burden of litigation without seeking to ameliorate that burden or putting in place an effective mechanism, of which there are many varieties, to secure effective funding for those with limited means where a legal help is needed to vindicate or enforce rights. It is a temptation that history since the sealing of Magna Carta shows us must and can be resisted. It is the price we pay, and must continue to pay, for a just and open society. In the words of one of my most illustrious predecessors as Chief Justice, Lord Mansfield, it is essential 'for peace, order and good governance' that we maintain the rule of law.

For some the price of maintaining the rule of law and access to justice as we all know has been and will remain very heavy. But it is one we all should gladly be prepared to pay. It is the foundation stone on which a just society has grown and flourished. It is the basis on which we have built a sound framework for economic growth and the benefits that brings to all in society. And we should all know that economies – just as individuals – grow best when all in society are committed to the rule of law. We must maintain that commitment. It is part of the 'title deeds of freedom'³, of which Magna Carta was the first of many.

I am confident therefore that over the course of the next three days our discussions will be of the highest quality. I am equally sure that we will consider in detail how Magna Carta's principles can be applied to shape our futures. In doing so we must, I think, remember something else Sir Winston Churchill once said when he was recalling, amongst other things, Magna Carta's inheritance. He reminded us all that when we did so – when we talked of the rule of law, genuine access to courts of justice – that we must 'preach what we practice [as well as] practice what we preach'⁴. Let us indeed. In doing so we will not simply secure Magna Carta's inheritance for the coming century, but reinforce the centrality of justice to our societies and to our global world in the way I have outlined.

³ W. Churchill, *ibid.*

⁴ W. Churchill, *ibid.*

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