

**SPEECH BY THE HON TUN DR MAHATHIR BIN MOHAMAD
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I would like to thank the University of Dhaka and its governing body for this honour conferred on me. I was trained as a medical doctor but as a Member of Parliament of course I was involved in the legislating of laws. I assume that it is because of this involvement that you deem it appropriate to confer on me the Honorary Degree of Doctor of Laws. I do hope I deserve it. Back home I am regarded as somewhat unfriendly by lawyers. Once I quoted one of Shakespeare's plays, I have forgotten which one, in which the Bard wrote "The first thing we do, we hang all the lawyers" or words to that effect. I think the Malaysian Bar has not forgiven me for that. I said it in jest of course, and so I believe did Shakespeare.

2. But truly, man-made laws are not perfect. That is why we keep on amending our laws every now and again. God's laws are perfect, but unfortunately we need God's laws to be interpreted for us by mere men. And the interpretation of God's laws by mere men can be wrong. They must be because for each of God's laws there are very many interpretations, some quite contrary to the others. It cannot be that all are right. But it is difficult to determine which is right and which is wrong. And so we do not get the full benefit of God's laws.

3. There is today much stress on the Rule of Law. I suppose it is good that we are not ruled by the whims and fancies of individuals. But then, as I said, Man's laws are far from perfect. They can be good or bad. Obviously when bad laws rule us, our lot cannot be very much better than authoritarian rule.

4. If we look at the old laws of that great nation which once colonised us, it used to provide for the death penalty for stealing a sheep. Today we have gone full circle. Capital punishment is considered as inhuman. And so murderers can literally get away with murder.

5. Some people do not believe that the punishment prescribed would be a deterrent. But there must be people who, knowing that they would not be hanged for murder, would not hesitate to murder. And there must be people who, knowing that they would be hanged for murder, would not murder.

6. In Malaysia we still hang people. The law prescribes a mandatory death sentence for drug trafficking. The reason why the death penalty is mandatory is because some judges are extremely reluctant to pass the death sentence. The law now requires the judge to determine only the guilt or otherwise of the accused. Effectively it is the legislators who pass the death sentence by formulating a law that make the death sentence mandatory.

7. Still some judges would get around this law through various technical means, quite within the law. And so the legislators, who have to take cognizance of the sufferings and deaths caused by drug abuse, would be frustrated.

8. Judges should of course be independent. It is assumed that not being influenced by anyone they would be able to apply the law with impartiality. But judges are also human. They have their feelings and sometimes they may have political leanings. This affects their impartiality and judgements. If they perceive that the Government or the Opposition is being unfair, they may favour one or the other, irrespective of the rights and wrongs of the case. There have been instances when judges stretch their logic to the point of absurdity if they wish to convict or acquit. In a strange case a man from an Opposition party who had exposed himself to a young girl campaigner for the Government party, was acquitted because the girl did not exhibit the "sarong" worn by the man in the court. And there are other absurdities when judges wish to acquit or

convict. And so the independence of judges may not result in justice or even be in accord with the rule of law.

9. The law on contempt of court has made people scared of criticising judges. As a result the quality of judgement can be very poor. It is possible of course to impeach and remove judges. But the process is so convoluted that it is better to tolerate bad judges than to remove them. Again justice would go out the windows.

10. Clearly the judicial system is far from being perfect. But there is nothing much we can do about it. The old blatantly corrupt judges have all but disappeared. But less blatant corruption is still possible.

11. In one very advanced country judges are selected by the President. They would naturally tend to favour the man who selected them. To prevent this from happening the candidates are subjected to bipartisan cross examination. The result of this humiliating process is that good lawyers would refuse to be judges. They are better off in every way practicing as lawyers. The theoretical conclusion is that only bad lawyers become judges. Justice will again not be served this way.

12. But then, how would a judge be selected? In one country judges are elected by the public. This will of course politicise the judiciary. It is not the uprightness of the candidate which will determine his selection. It would be his popularity and political leanings. And so we saw judges who, when called upon to rule in a case where the candidate's majority was unclear, favoured the candidate of the party which selected them.

13. The legal system in modern times, whether it is based on British Common Law or the Napoleonic Code, is still unable to ensure justice. The rule of law as a slogan is more political than being a means of ensuring justice and better governance. We should examine carefully the motive of those who insist the Rule of Law must prevail.

14. Many Muslim countries apply Sharia laws. But the tendency is to stress procedures and punishment rather than justice. Yet repeatedly the Quran says "When you judge, judge with justice". Thus if the four witnesses could not be produced before the judge, the victim of rape may find herself being charged with false accusation. She could be punished even though she could identify her assailant positively. Surely this cannot be just, especially now when DNA identification can ascertain who the rapist is.

15. Worst still, if later the victim becomes pregnant and bears a child she can be accused of adultery and may even be stoned to death.

16. Is it Islamic law which is unjust? It is not. This injustice happens because we stress procedures and punishments rather than justice as repeatedly enjoined by the Quran. If it is clear the punishment would be unjust, and certainly punishing the victim and not the rapist would be unjust under any system, then the decision of the judge is not in keeping with the injunctions of Islam. Clearly it is not Islamic law which is wrong or unjust; it is the interpretation which stresses the form rather than the substance of Islamic legal principles which gives a bad name to a perfect religious law.

17. You must excuse me if I say that laws and their enforcement i.e. the Rule of Law does not guarantee justice. I am talking as a legislator who had the responsibility to formulate laws intended to bring about justice. We feel frustrated when after meticulously crafting the law; we find the courts ignoring the objective or the intention.

18. Judges are often more concerned about the wordings of the law and not the intention. We cannot really write a sentence and achieve only one interpretation all the time, every time. There can be many interpretations. If a judge chooses too, he can negate the objective by

putting a different interpretation to the words in the law. Then the law will become bad law and will have to be amended. But the amended law can be open to multiple interpretations also. The Rule of Law therefore may result in justice not being done.

19. In a recent case in Malaysia the appeal judges decided that since the prosecution got the dates wrong, even though they agree the offence was committed, the accused person was found not guilty and was acquitted. As precedence is important in determining cases, subsequent cases were dismissed because the prosecution failed to pinpoint the dates. And this includes the acquittal of a father for raping his daughter. In another case the evidence of a 10 year old girl who was raped was dismissed because the judge insists the child did not understand the seriousness of her accusation.

20. The campaign to implement the rule of law is no doubt highly motivated but what we need is the rule of justice. The law can be bad or it can be wrongly interpreted. As a result the rule of law may not be just.

21. I would like very much to believe that all we need is the rule of law and justice will be done. But I fear that the rule of law is not enough. There are very many more things that we need to do before we will see society enjoying the kind of justice and fairness that it should have.
Ladies and Gentlemen,

22. I would like, on this memorable occasion to congratulate the students who had just graduated. They will I am sure be going out into the wide world equipped with better knowledge and would be better able to contribute to the improvement of the society they live in.

23. This is a very important occasion for them because it marks the end of a phase in their tertiary education. This is not the end of their quest for knowledge. The process of knowledge acquisition never ends. It goes on throughout life.

24. Today more people have access to higher education than ever before. This cannot but improve the quality of life in human society. Historically we know that the level of knowledge determines the height of civilisation achieved by human society.

25. Islam urges us to "Read", Iqraq. Reading must increase our knowledge of things. It is the first message received from Allah by Muhammad s.a.w. Surely it must be because the acquisition of knowledge is of prime importance for the progress of Islam and the Ummah.

26. And so we see how a great civilisation was built initiated by the formerly ignorant Jahilliah Arab who embraced Islam. The Muslims of the early centuries of Islam went to great length to acquire knowledge. They translated and studied the works of the Greeks, the Persians and the Indians. They expanded on this knowledge so that the Europeans had to access the great libraries of the Muslims in order to learn the teachings of the great Greek philosophers, scientists and mathematicians etc. With this effort the Dark Ages of the Europeans ended and they began the building of their present civilisation.

27. Unfortunately even as the Europeans were benefiting from the scholarship of the Muslims, the Muslims themselves decided to reject knowledge other than of their own religion.

28. The consequence is what we see today – the decline of the Muslims and the rise of the Europeans.

29. We Muslim must not neglect the study of our religion but "Iqraq" is not confined to reading religion alone. Other knowledge is as important to the well-being of the Muslims and Islam as are the knowledge about our religion. Knowing this we must strive doubly hard to acquire knowledge in all fields, in the sciences and technology so we may serve the Ummah and Islam better. This

is our bounden duty because our neglect of these fields of studies has made the Muslims weak and easily oppressed.

30. I hope and pray that those of you graduating today would continue your search for knowledge and would apply it not just for your personal betterment but also for the defence of the downtrodden Ummah of today. Truly it is our duty. We have only ourselves to blame if we fail.

31. I would like to wish all the very best to the graduates as they journey into the future.

32. Once again thank you very much for the honorary degree and for this opportunity to deliver this Convocation speech today.
