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Thank you Mireille. I would also like to thank Thierry for asking me to come. When I boarded the plane in Washington, the sky was grey and the weather was bad. I get here and it's nice and sunny. As the poet said, "Happy is he who, like Ulysses, has had a good journey." Especially when the destination is France!

I am going to give you examples, because I am an advocate of metamorphosis. I believe this is metamorphosis, not destruction. And I'm going to give enough examples, I hope, for you to have a better understanding of why I'm optimistic. The first example: the docket of cases at the Supreme Court. I'm a judge, a legal expert, not a politician or a businessman. I don't make big decisions, I make technical decisions on technical matters. A lawyer is like a drone.

But what is the docket? The docket changes. When I was appointed to the Supreme Court 19 years ago, one or two cases at the most involved the law of other countries, transnational law, as you say, Mireille, or international law. Today, out of 85 cases, perhaps 10 to 15 involve international law. What are the issues? Anything's possible. Last year, a young Thai student found out that school textbooks in Thailand were cheaper. His parents sent him the textbooks and he sold them. Well done. Smart. He made money. But are there five words in copyright law that keep him from doing that? It depends. Eventually we said, "No there aren't, he can do it." But in the brief we found out that this case, which seems technical, trivial perhaps, is worth a trillion dollars or more in international trade. Because nowadays copyright law involves not just books, not just books, music and movies, but also any product with a label subject to copyright. It's everywhere. And so we have to rule on this case, and I'd like to tell you something you must know, that in American law it's impossible to make a proper ruling in this case without knowing copyright law in Europe, Asia and other countries, too.

Or, for example — maybe you've heard of this — we have an agency called the National Security Agency, which uses listening devices from time to time. I don't know exactly who they're eavesdropping on, maybe everybody in the world. I don't know! Anyway, we have a case involving this agency, and everybody else in the world is concerned by it. And perhaps the clauses in the American Constitution that are very general can teach something.

We also have cases, which you mentioned, Mireille, where some 18th-century laws say that anybody, including a foreigner, can bring a suit against a citizen of another country, such as Paraguay, for example. The plaintiff was a Paraguayan citizen who says he was tortured. The defendant was another Paraguayan. Can the case be heard in New York? It's hard to say. This law was meant for pirates. So the question comes up: who are the pirates today? You have to know something about the world and human rights, and not just in your own country.

Our legal system gives Congress the right to make laws. Can a treaty increase that power beyond the limits that exist in our case in the Constitution of the United States? This is important because we train many global organisations. There are, for example, organisations like the World Trade Organisation with bureaucrats who enact international rules for others. What is the status of those rules? Are they *binding* on domestic law in the United States or *non-binding*? These are just some of the thorny issues we must decide. There are many more.

Naturally, in this sense, with a docket like this, there are more and more problems. The first problem, if you haven't guessed yet, is a problem of knowledge. Recently, in the case with the young student from Thailand, we received briefs from England, briefs from France I think, briefs from the Netherlands, briefs from the Department of State, briefs from companies everywhere and briefs from lawyers in other countries who said that the government of their country was certainly wrong. There are many briefs that can inform us. And even, if there are implications for the Department of State, the Department of State will file briefs as well. It does. But that's not enough. Because the Department of State has a certain point of view. Maybe they're right, maybe they're wrong. But there's not a Westlaw for the whole world. Lawyers are very familiar with Westlaw. It's a search tool. Will there ever be a Westlaw for the world? Will law students be able to take courses to learn about foreign or international law? They must become a part of the curriculum at major law schools. That's starting. But it must go on.

The second problem is one that Mireille also noticed: the problem of standardisation. We cannot have a system, even with pirates, where some countries are going to indict Mr. Kissinger, other countries are going to indict somebody else



from another country and other countries are going to indict yet another person. This practice is political by nature and in my opinion does not function as a system of law. There must be a common rule that every country can follow. There's a concept in law called *comity* that requires harmony. Easier said than done.

The third problem is knowing whether all the countries concerned will follow the law. This is a matter of efficacy and a matter of will. France doesn't have this problem. England doesn't have this problem. I hope the United States doesn't have this problem, either. But there are many other countries in the world. And yet I'm optimistic about solving this problem. Why? Because more and more people realise that the rule of law, the system of rules, is a safeguard against arbitrariness. The rule of law fights against arbitrariness. What is arbitrariness? The unreasonable, the unjust, the tyrannical, the despotic. What would you rather have? The rule of law or arbitrariness? More and more people are saying "the rule of law". And I see it, I see it every day. I often say so, in my office, at the Court, I see lawyers from other countries, I see judges from other countries saying so. As I said before, we recently received a visit from the President of the Court of Ghana: she is trying to protect basic rights. And she asks questions. They are the same questions I heard in Ouagadougou. And in Ouagadougou I heard exactly the same questions from the judges of Burkina Faso. And I hear the same questions from judges from China who come to Washington every once in a while. And what are those questions? "Why don't the Americans (you could also say the French or the English) practice what they preach? There are only nine of you. You have perhaps over a thousand judges in the United States for a population of 311 million. Why?" Let me explain a bit of history. I think this story gives us the right answer. This is a story involving a situation where the Chief Justice of the Supreme Court, in 1830, said that the Indians owned land in Georgia. The Chief Justice of the Court asked the President of the United States to implement the decision. The President did the opposite and sent troops to chase the Indians to Oklahoma. All of us, Americans, you and I, understand the situation in Arkansas in 1957 very well. The Supreme Court ruled in *Brown versus Board of Education* in 1954 that racial segregation is against the law. What happened in 1956 and 1957 is important. In 1957 a judge in Arkansas said, "The schools must be integrated". And the governor of Arkansas said, "No. You have judges, I have the militia." President Eisenhower sent in a thousand troops from the 101st Airborne Division, the heroes of the Second World War. And they escorted young black students into an all-white school. So that was a start. Now, in *Bush versus Gore*, I was in the minority and — this is something even more remarkable — this position was unpopular for at least half the population of the United States. Judges are human. They can be wrong. What's remarkable is that there were no violent demonstrations, nobody was killed. And when I speak to students, I say, "There were no violent demonstrations" and they think "what a shame!" But you have to watch television and see what happens in countries where they settle problems with force instead of law. So you can see what I'm getting at. It's an irreversible trend. At least that's my hope. To see peoples obey the law interpreted by courts. I tell judges that other judges aren't the ones who need convincing. It's not necessary to convince lawyers, either. But there are 310 million people in the United States who are neither judges nor lawyers. That's the real audience. In Africa, the people in villages are the ones who must be convinced about the values of the rule of law. And who wrote that best? I'm going to be precise. Camus, who wrote the following at the end of *The Plague*. You know, Oran is invaded by the plague, in reality the Nazis. Afterwards the author wrote, "Why did I write this novel? I wrote it to show what the people of Oran did, to explain what a doctor is: a doctor is somebody who helps the weak without a second thought. But I also wrote it to explain that that the plague bacillus never dies or disappears for good; that it can lie dormant for years and years in furniture and linen-chests; that it bides its time in bedrooms, cellars, trunks, and bookshelves; and that perhaps the day would come when, for the bane and the enlightening of men, it would rouse up its rats again and send them forth to die in a happy city."

That is the struggle. And I tell judges and lawyers, "We're just one weapon in the fight against the plague. And this idea, I think, at this time, is a worldwide idea. So I'm optimistic. I see this idea growing, and the problems can be solved. I'm an advocate of what Mireille called "metamorphosis".