



# MICHAEL MØLLER

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## Laurent COHEN-TANUGI

So it seems like wherever you look, whether international business or international politics, or trade, the rule-of-law-based system is under threat. What do the United Nations have to say to that, Mr Møller?

## Michael MØLLER

I am no longer the United Nations.

## Laurent COHEN-TANUGI

Well, still...

## Michael MØLLER

I retired. Thank you. Thank you to my fellow panel members for so eloquently highlighting some of the specific issues of the issue at hand. I am going to, with your permission, take a look at more of a bird's eye view and situate what we are talking about in a broader context in which we live.

Weaponization of law is not a new phenomenon. It has been going on ever since humanity started establishing rules and norms for how we govern ourselves. We use law for good and for bad. We use it to ensure the orderly conduct of our lives, but also to rule, and as we have just heard, to subjugate, to gain political, economic and personal advantage etc. We use it to also counter the negative aspects that we have talked about.

It is this constant balancing act across history, at all levels of our societies, between good and evil, that has culminated over the past 70 years or so in the absolutely unprecedented and extraordinary levels of peace, rights and wellbeing that we have achieved for humanity. Human rights have never been better off than they are today, and law, quite obviously, has been, and is, an indispensable foundation and driver for those advances.

Our discussion today is part of a much-needed global urgent examination of how we preserve those gains, and more importantly, how we ensure that our succeeding generations will live, and can live on a sustainable planet that is able to provide them with life, and health, and peace and dignity.

I am neither a lawyer nor an academic. I am a practitioner on the international stage over the past four decades, and it is as such that I would like to reflect a bit on where we are now, and on where and how we should go next.

Underlying the framing of our debate today on the weaponization of law and globalization is a pervasive concern that fundamental tenets of the international and indeed national order are fraying. It is true. The implicit self-evidence with which we, up until just a few years ago, treated the rule of law as the natural order within a state, and the liberal rule-based system between states, today almost seems naïve.

The fundamental questions about the way our world is governed have been thrown wide open once again. Today, we are faced with a massive trust deficit, growing inequality. People ask whether democracy is still viable. Powerful actors on the world stage propagate the end of multilateralism, a new fascination for authoritarianism has penetrated our discourse. Laws, rules, norms and standards are systematically being misused or ignored entirely, and the world is increasingly polarized.



Political debate today is reminiscent of what Hannah Arendt wrote about the 1920s and 30s, that any statement of fact becomes a question of motive, and debates are decided by allegiance, not by arguments. Populists the world over have pushed us into an us-versus-them scenario, with people against the establishment, the locals versus the immigrants, and similar false dichotomies.

Structural economic polarization is rampant and growing. A handful of men own more than the bottom half of humanity, while entire regions and countries are failing to catch up to the waves of progress left behind in the [inaudible] of the world. A totally unsustainable situation.

When people see a select few seemingly living by a different set of rules, avoiding taxes, manipulating loopholes, legal loopholes, this naturally further feeds a strong sense of injustice.

Deepening polarization in our political debate, and rampant inequality in our economic affairs have created a dangerous seedbed for discontent. It stretches the fabric of society to breaking point, and it undermines trust in the rules and institutions that govern our societies.

We are also witnessing a dramatic diffusion of power. The central role of the nation state as we know it is decreasing as we speak. For example, mayors of big urban centers, private businesses, NGOs, rich and powerful individuals today exert influence on the global stage on a global scale. At this stage, this new polycentric, or multi-stakeholder system is more fluid and unstable than the balance of power that preceded it. That may change.

In addition to all this of course are the major existential changes and threats facing us in an increasingly aggressive manner, every day. The effect of climate change, the rapid evolution of technology, present and future migration patterns, the increasing prevalence of health emergencies, growing inequality, corruption, terrorism etc.

I would add another important existential change. For the past several years, and until today, or until very recently, we have used the past to navigate and manage our present. Today, we are increasingly faced with the reality that it is the future that determines our present. We are living a major transformation of our world, and a major transition in the tools that we have to manage it. Clearly, in this context, the multilateral model and the laws that underpin it, that have served us so well over the past seven decades, are no longer up to the task of dealing with the problems I have just enumerated. At this time of dysfunction and transition in global and local power relations and governance structures, there looms the additional risk of the world splitting in two, as we spoke of this morning, with the two largest economies creating two separate and competing worlds, each with their own dominant currency, trade and financial rules, their own Internet and artificial intelligence capacities, their own zero-sum geo-political and military strategies, and with their own, and at times very distinct interpretation of the law.

These realities are a further strain on the international legal framework, which is increasingly out of step with developments on the ground. Just think of how far behind the global norms and rules are relative to the breath-taking and rapid advances in autonomous weapons, cyberwarfare and the arms race and artificial intelligence.

We have been discussing, and the world over, we are discussing globalization, and in some cases, in very negative terms. As far as I am concerned, globalization is really not a four-letter word. Whether you like it or not, it is an operational and very potent reality that frames every human activity on our planet. What we need to do is now to elaborate a new multilateral approach that is more networked, more inclusive and more collaborative. One that fully embraces our increasing interdependence and delivers governance structures that are flexible, people-centred and that help us ensure that we leave no one behind, one that is based on the clear collective understanding that if we do not, our very existence is at stake.

In all of this, law had, has and will have a determining role in how things unfold. We have to find, and we will have to find new ways of establishing the rules for the successful management of our future, ways that are adapted to the speed at which developments are unfolding, particularly on the big ticket items I have mentioned earlier, especially climate and technology.

We no longer have the luxury of time to sit and elaborate treaties over many years. Now we have to include multiple actors. I think that the days of governments as the sole actor in these areas is fast coming to an end.



One source of inspiration for the way to do this are the Paris Climate Agreement, and the 2030 Development Agenda with its 17 SDGs. They are a global roadmap for fixing what ails the world, and were negotiated and agreed in an inclusive and voluntary approach that is not legally binding.

A rules-based, multilateral governance model is I think the only way forward. If some of us, as is happening today, including some of the big players, persist in thinking that they can manage their and our problems on their own, we will collectively not make it. This also means upholding and preserving the ability of my old employer, the United Nations, and I hasten to say a very reformed United Nations which remains the only genuinely global and genuinely neutral table around which all actors can come together on an equal footing. It means engaging with and supporting the multilateral breakthroughs that did happen in recent years, above all what I just mentioned, the sustainable development goals which are key vehicles for promoting the rule of law on a global as much as a local scale.

The 2030 agenda is critical in guiding our strategic response. We cannot successfully deal with the multiplicity of challenges we face either regionally, sequentially or in isolation. That is true for climate change, it is true for combating inequality, and it is certainly also true in our collective struggle to uphold the rule of law.

That will only become more important in a world that is rapidly becoming multipolar, even though it may remain bipolar for a few more years. Which is yet another reason why the only viable way forward is multilateral. Not a multilateralism of the past, but one that recognizes the transformation of recent years, a multilateralism that is intergovernmental, but that implicates and empowers other actors on the international stage, from civil society to business etc., a networked inclusive multilateralism.

We have the knowledge, we have the expertise, we have the human and financial resources to do so, and all we need is a little bit more will. Thank you very much.

#### **Laurent COHEN-TANUGI**

Thank you for replacing our topic in the broader background of the transitions we are going through, and for this vibrant advocacy of reformed multilateralism in which law would remain the cornerstone.