

GLOBALIZATION, SOCIAL AND RELIGIOUS DIVERSITY, LEGAL PLURALISM: CAN STATE LAW SURVIVE?

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It is a great honour to be invited to give this 8th Ahmad Ibrahim Memorial Lecture. I met Ahmad Ibrahim several times during his period as founding Dean of the Kulliyah of Laws of the International Islamic University Malaysia, when we both attended conferences of the Commonwealth Legal Education Association in Cumberland Lodge, Windsor, Britain. He was immensely respected in the field of legal education in the Commonwealth; his interventions in our discussions were fewer than those of some colleagues, who liked to talk at length on every occasion and about every topic, but when he made comments they were always effective, being evidently based on long experience and deep thought. I have since read some of his work and learnt from it - as will appear, in small measure, from some references I make later in this lecture.

I propose to put some very general suggestions regarding the world-wide development of law. I shall speak about trends which have appeared, about the present patterns of legal systems, and about possible developments in the immediate future. With regard to future developments I do not assume that any of us individually are likely to have very much influence on what occurs, but I do think it worthwhile to look at what is possible and practicable before discussing what might be desirable. Even as a study of possibilities, this is a preliminary consideration. I have just said that I am continuing my law studies - all that I say and argue will be

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a report on work in progress. A true academic, in my view, never ceases to be a student; human beings can never draw a line, and say "I have achieved complete knowledge, I have reached my destination." I note that Ahmad Ibrahim wrote a masterful, detailed account of a certain period of legal history in Malaysia, but he entitled it merely "*Towards a History of Law in Malaysia and Singapore.*"¹

And because I am a student of law, and especially one with a western training in law, I am inclined to start with the law of the state. For professional lawyers are usually concerned with state law - its interpretation, administration, creation, manipulation. (State law of course in a federal state includes both the law of the federation and the laws of its constituent parts). Thus the title of my talk puts the question of the future of *state* law. However, I shall argue that state law cannot be properly understood without a serious consideration of other types of law.

I shall not attempt to focus on the laws in a particular part of the world alone, as Professor Harding did in last year's Ahmad Ibrahim memorial lecture. I do not have his knowledge of the laws of Asia. I think moreover that there is value for the study of law in world-wide contexts just as there is for the study of laws in particular regions. I *think* that all I say will be relevant in some way to legal situations in Malaysia - but I must leave it to you to make the connections and to test what I say against examples within your knowledge. I hope to hear from some of you as to these, and to learn whether what I say does indeed have any usefulness here.

I wish also at the outset to declare my adoption of a particular approach to the understanding of the different types of law in the human world. This is to see law as a social phenomenon, the existence and nature of each variety of law as a question of *fact* for empirical investigation. According to this approach the question, what is the law within a particular system on a particular subject is to be answered by research into the facts, not by doctrinal argument. It requires us to look for the norms which in reality are followed by people in society, not the norms which are said to be law by the learned jurists. I do not say that doctrinal argument is to be excluded from our minds. Social observation

¹ Ahmad Ibrahim, *Towards a History of Law in Malaysia and Singapore*, Braddell Memorial Lecture, 1970.

shows that doctrinal reasoning is in fact a causal factor in the social observance of many rules of many types of law. So if we are to understand law as a social fact we need to understand the doctrines which are involved with these facts. But for this purpose our questions about doctrines are whether they are in fact propounded, followed, believed in, not whether they are valid.

I acknowledge that this is a controversial position. I do not wish to suggest that all thought about law in all circumstances should be in these terms. It may be that doctrinal debate about the true content of an overarching, supreme law is more important than any other type of legal study. I can only say in response to that suggestion, that I have concentrated in my work on trying to clarify our understanding at a lower, although I think still important, level. I acknowledge that nearly all of us, lawyers and subjects of law, choose to work and act most of the time within the confines of a particular legal system, often either a state law or a religious law. For that purpose we choose to adopt a particular doctrine and particular methods of reasoning, and we are often ready to argue that certain propositions of law are valid, and some are invalid. In this context we may well claim that the only true law is that with which our work is concerned. Thus practitioners of state law tend generally to deny that there can be any law whatsoever other than that ordained by the modern state. This view, of the legal practitioner, is the result of taking what the legal philosopher HLA Hart called the internal point of view of a law. This is often necessary for professional, practical purposes, but sometimes we need to take a broader approach. We may feel strongly about the value of our own law, but it seems obvious that humanity is not going to agree in the immediate future that we all ought to adopt the internal point of view of one particular law.

My suggestion is, that, if we are to develop our understanding of law in general, rather than the law of a single system, we need, at least for some of the time and as a preliminary task, to take an objective, fact-focussed approach. We cannot understand properly another law from the internal viewpoint of our own law. This was demonstrated repeatedly in the attempts of the British colonial power, having imposed their law on non-European societies, then to decree that the local religious and customary laws should also be parts, but subordinate parts, of the legal systems they had established. Again and again they failed to understand those other laws because they viewed them with their own, English-law internal point of view. A comparative study of two or more laws, any

study of the general nature of law, legal rules, legal policies, legal reasoning, needs to be based on an approach which treats each law objectively. Moreover, if we are to make our choice between different laws to which we individually may choose to adhere, or which we collectively may adopt for our community or country, again, I suggest, we need first to study each law in these objective, empirical terms. I recall that Ahmad Ibrahim, in the course of arguing for the better implementation of Islamic law in Malaysia, also argued that for that purpose it was necessary to develop a better understanding of the laws and customs of all groups in the country.²

If for the purposes of this exercise we regard law as a social phenomenon, we may see it as essentially consisting of the norms (that is, of rules and principles of conduct) which are observed by a population (I will call any group of people a population). That, I would suggest, is enough. If we are to take a concept of law which can serve for cross-cultural comparisons, it needs to be a minimal definition – we must not include requirements which may not be present in some of the instances which we may wish to include. So I refer here to norms not as abstract prescriptions but as the motivation for conduct which actually occurs. I am speaking about people acting in certain ways *because* a norm requires this. There are of course additional background motivating factors in every case – the norms may be observed for a range of reasons, from religious conviction through respect for one's ancestors to fear of a military dictator. There are of course also many instances in every law of breaches of norms which are on the whole observed. But for the purpose of identifying law as a social phenomenon it is enough to say that it consists of norms which are observed (by and large) by a population. We can see that there are a number of broad and loose categories of law in this sense.

State law, first, is that which is associated, in the making or the enforcement of its norms (or both) with the institutions of a state. For a state law to exist in fact it is not sufficient that its norms exist in paper prescriptions; they must be observed by a population. (A "population" is

² Ahmad Ibrahim, *The Administration of Islamic Law in Malaysia*, 30-35, noted by Abdul Aziz Bari, *Ahmad Ibrahim and the Islamization of Law in Malaysia*, Kuala Lumpur: Harun M. Hashim Law Centre, 2004, 13.

not necessarily the totality of the persons which the state in question *claims* to be subject to its law). A state may or may not claim that its law is, or accords with a particular religious law.

State law has not existed in all known societies at all times. Furthermore, it is arguable that it is today in decline as a force of legal authority as a result in part of what we loosely call globalization. The precise nature of globalization is the object of much debate, but it may be clear enough that it at least includes "the intensification of worldwide social relations which link distant localities in such a way that local happenings are shaped by events occurring many miles away and vice versa,"³ occurring largely as a result of developments in technologies. For the present purpose the important aspect of globalization is the rise of various transnational bodies of law which tend to subordinate state laws. These include the laws of various regional organisations, especially economic, the laws of newly developed world organisations such as the World Trade Organisation, and bodies of international law in the more traditional sense, including international human rights laws. Today one aspect of globalization is that increasing economic and political pressure is brought to bear on individual states to comply with these laws. They are all positive laws in the way in which state law is positive law, being laid down by specific, usually written injunctions of identifiable human bodies. So my first category of law I would rename positive law including (although to a declining degree) state law.

As a second broad type of empirically observable law I would list religious law. I do not think it is necessary on this occasion to argue for the social significance of this law. It is obvious that it is commonly differentiated from positive law in its basis of authority, its declared source, and the individual subject's motivation for obedience. It is also obvious that, while state law is usually territorially limited in scope, the population which observes a particular religious law is apt to be markedly transnational. I will say more later about the relations between different laws. But it may be noticed now that, if a state ostensibly adopts a religious law as the state law, this never results in a complete merger of the two. It will be extremely difficult to ensure that the religious law always prevails when it conflicts with state law, even in terms of formal

³ Anthony Giddens, *The Consequences of Modernity*. Stanford: Stanford University Press (1990). 64.

doctrine, and it is most unlikely that it will prevail in general observance of the entire population of the state. I will return to this.

Thirdly, there is and has always been a vast amount of customary law throughout the world. A customary law is a body of norms which have emerged from and are changed by the conduct of the population which collectively observes them. A common expression by people of their motivation for the observance of customary law is: "We do this because we have always done it," or simply, "This is our law," meaning that it expresses the identity of the ethnic or other group which observes it. Customary law is not usually written, although there is no reason why it should not be put into writing as it stands at a particular time, nor that writing should not be an element in the sources used to ascertain what is the customary law on a particular point. The population of a customary law is usually a portion of the population of one state, although there are also many customary law groups which straddle international borders.

People have always been aware of their own customary laws. In relatively modern times European colonisation resulted in a wider awareness of the multitude of customary laws of many colonised peoples, in the consideration of these and sometimes their serious study by colonial administrators, and an increased degree of scientific study by anthropologists. For the colonial period one thinks especially of the customary laws of Africa and of *adat* in southeast Asia, largely the customary laws of particular ethnic groups. As the social sciences developed in the 20th century, some attention was given to newly developed customary laws in different types of communities such as the workforces in particular industries or particular professions in certain countries. In the latter half of the 20th century there was a surge in the study of the customary laws of indigenous minorities, a surge linked to activism by them and on their behalf.

However, the notion of customary law has encountered objections, which I must mention before going further: it is quite possible that these are already worrying some in this room. The positivist legal philosophers have asserted that customary law is not law properly so called – or not until it is adopted by the state as part of state law, when it is then conferred with the quality of "law." The response to this has to be that this is an application of the self-serving ideology of state law which makes these assertions without empirical evidence. In reality, as is well known, customary laws are often more commonly observed than state laws, more highly respected, and more effectively enforced by

social sanctions. They are at least as clear and certain (to those who observe them) as state law; and they change with social changes to ensure that they always accord with the notions of reasonableness on which they are based. There is no difference between state law and customary law which is sufficiently significant to justify labelling the one law and the other non-law.

Indeed, analytically also the distinction between positive state law and customary law is problematic. The principal difficulty in drawing a distinction arises from our experience that in any body of positive law the specific norms must be limited in number, and need interpretation. As a result the process of applying them to new situations and interpreting them inevitably requires recourse to a large body of understandings as to the procedures and processes which should be followed – that is, to norms of customary law. These are not necessarily norms of a generally accepted customary law within the population which observes the remainder of that state law. They are more likely to be a customary law of the legal and allied professions. But they are nevertheless a customary law. Another difficulty in drawing a distinction between positive state law and customary law arises when we consider the ultimate basis of state law. If one looks at any state law, whether it is derived from the commands of a specific ruler or the decrees of a democratic assembly, the question may be put: Why does a population accept the authority of these law-makers, or the binding nature of the social contract? The answer must surely be: because it has become customary for them to do so.

For obvious reasons I do not think that these arguments can be applied to a religious law – unless that law itself explicitly accords authority to a customary law. But it is worth noticing that there are and have long been communities which have observed a mixture of religious law and customary law – one such instance is discussed by Ahmad Ibrahim in the Baddell Memorial Lecture of 1970 with regard to Malacca.⁴

So, I suggest that we can identify three general types of law, each of them widespread around the world: positive law, religious law, and customary law. On that general observation I wish to base another. I believe it arises naturally out of what I have just said about these types

⁴ Above note 1.

of law. This is the universality of the fact of legal pluralism. If these types of law – positive law, religious law and customary law – are rightly to be regarded as “law” for the purposes of a social study of law, it must, I suggest, be recognised that there are situations in which two or more different laws are observed by a population, either by people regularly switching back and forth from one to the other or by their observing different laws in different daily situations. Legal pluralism is that state of affairs in which one population or group of people thus observe more than one law. I would suggest that the situation is universal. It is universal if for no other reason than because virtually everyone in the world today is claimed as a subject by a state law and does in practice observe some state law, at least for a few activities, but virtually everyone also observes in other activities one or more religious laws or customary laws. So legal pluralism, as the situation in which a population observes more than one body of law, is a universal phenomenon.

I have found that to some this assertion seems either a ridiculously mistaken analysis of reality or an accurate account of a deplorable state of affairs. This is far too much law, they say, or it is too disorderly – and where can be the rule of law, respect for law, in all this? I think that these reactions come from those who are so imbued with the ideology of their particular chosen law – usually a state law – that they are unable to take an objective view of social reality. In fact the rule of law does indeed prevail very widely – but it is not always the rule of positive state law. And in any case, if legal pluralism is the reality, we would do better to recognise its existence even if we regret it. This, it seems to me, is what in its wisdom the International Islamic University Malaysia did when it established not a Kulliyyah of Law, but a Kulliyyah of Laws – here is the clearest recognition that, within this region at least, a population has more than one law.

This great diversity of law is just one aspect of the social and religious diversity of all parts of the world today. There has always been this diversity, but some observers have been more realistic in seeing it than others, and quite possibly recent globalising forces have increased it in many parts of the world. Globalisation, as I have defined it, has resulted not only in the transnational pressures on the state which I mentioned earlier, but also in an increase in the rate of long-distance migration of peoples. I would suppose that most European countries, and many other parts of the world today have, because of immigration, a greater social and religious diversity than 50 years ago. Immigrant groups tend to

maintain the cultures and religions – and so the laws – of their homelands. So that state law and its effectiveness are eroded not only by the external processes of transnational law such as world trade law, but also by the internal growth in social and religious diversity. I suspect that the internal processes are more of a threat to the claimed hegemony of state law than the external pressures.

In the light of this situation of ubiquitous and complex legal pluralism, all of us with an interest in law may feel the need to give thought to questions about the future. I have just suggested a reflection (referred to also in my lecture title) on what may as a matter of fact be the future, a legal future in which rather little power is wielded by state law. But we ought to be asking what sort of legal future should be our aim? I am not competent to propose an answer to that, but what I would like to do in the remaining time is to try to clarify the nature of the situation which confronts us. It has been said of Ahmad Ibrahim that in his writings “instead of making rhetorical statements on the ideals, he went straight to the improvement of the prevailing state of affairs.”⁵ It is in that spirit that I wish to say something about the relations between different laws in situations of legal pluralism.

There is perhaps a danger that we may look at the different laws in such a situation, see that their provisions differ considerably, and conclude that they conflict, or are incompatible with each other. But perhaps that conclusion is not always justified. There is, clearly, a conflict if one law requires something to be done and another law, which is generally observed by the same people, forbids that same act. But this is not often the case. Take, for example, the possibility that a religious law requires certain ceremonies of worship, or prayers, to be performed at certain times; and the state law does not so require. There is a divergence here, but in most cases the state does not prohibit the religious observance. State law simply contains no imperative norm one way or the other on the topic, the effect being that it permits the acts required by the religious law. This is not a conflict; the laws do not place individuals in an impossible position.

I do not wish to underestimate the problems which may arise. There are certain important instances where a religious or customary law prohibits certain acts, and state law does not contradict this, may

⁵ Abdul Aziz Bari, *op. cit.*, 10.

even prohibit those acts also, but where the religious or customary law stipulates the procedures and penalties due for offenders – but then the imposition of those stipulated procedures and penalties would infringe other norms of state law. For the infliction of constraint and punishment on a person who has offended is often forbidden unless the state's procedures of trial, conviction and sentence have been followed. Those I think are generally few, but can be of great significance to those concerned. There is also a problem arising from the tendency in modern industrialised societies for state law to attempt to regulate more conduct in increasingly detailed ways. For example, in the past state laws have generally not sought to regulate ordinary people's forms of dress; but an increasing concern with risk has led state laws to require that in certain circumstances forms of protective clothing must be worn. These are sometimes incompatible with the requirements of religious or customary laws. So for example a requirement that persons working on construction sites wear hard hats, or that motorcyclists wear crash helmets has been found to conflict with the rule of the Sikh religion that a man wear a turban at all times.

Still more complex issues arise from legal norms in all laws which do not require or prohibit, but which provide that new legal relations are to ensue from voluntary acts or from events. Marriage is a good illustration – laws very rarely require that in specific circumstances a person must marry, but most laws prescribe the procedure by which a person may contract a valid marriage and the legal consequences of a marriage. In a situation of legal pluralism a person may thus be able to choose to marry under any one of two or more laws. The law under which they marry may then be expected to govern their marital relationship. The difficulty here is that quite frequently issues arising from marital relationships require enforcement, and the only effective means of enforcement in a particular case may be provided by a law other than that under which the marriage was contracted. If for example a couple have married under a religious law their state law may be unwilling to enforce any rights or maintenance arising out of the marriage or to recognise the marriage for the purpose of divorce proceedings or in relation to issues of inheritance; this can be a serious matter if the religious law in question has insufficient coercive power against a party who flouts his or her obligations under that law.

Clearly the very existence of legal pluralism carries with it the possibility of conflict, but it also raises for every situation the question as

to which of the available laws is to prevail. If the laws do not contain an express or tacit programme or policy for regulating this issue, there will continue an unordered legal pluralism which we may describe as an agglomeration of laws – here conflicts will continue and quite possibly multiply.

It may be worthwhile to consider the other possible policies which one law may adopt towards the other. We still need, I suggest, to take care to adopt an objective view. I took part last year in a useful conference on the laws suitable for culturally diverse societies. But part of it was entitled “The management of cultural diversity by state law,” and this troubled me. State law has neither the capacity nor the entitlement to “manage” society. In circumstances of cultural diversity each law arising from one of the cultures may adopt a policy towards that diversity. If we are to consider the policy which a law may contain, we must always recognise that the different laws in a situation of legal pluralism may contain different policies with regard to the law which should prevail in various situations. It is also likely that each law will adopt different policies with regard to different portions of the other law, for example by accepting that the other law may prevail in issues concerning family relations but not in criminal law. All this may well be untidy and confusing, but that does not prevent it from happening.

A law may aim at unification, that is the removal of legal pluralism by the installation of a single body of law to be observed by all. It may aim for this through its own achievement of exclusive control of the entire social field, seeking to eliminate the observance of other laws. All that I would say here is that it will very rarely be realistic to think that this can be achieved merely by decreeing that it shall be so. State laws have attempted to declare the non-observance of other laws; they have never been successful without setting up carefully designed mechanisms of social engineering for the purpose, and even then only rarely and after long periods of conflict and friction. But it is certainly not unlikely that a law may contain this policy with regard not to the entirety of another law, but to a particular portion of it which it sees as totally unacceptable or as threatening.

An alternative policy of unification aims not at the demise of other laws and the triumph of one but through the creation of one, new law which contains some features from each of those which it replaces, being a “hybrid” of them. This again entails aiming for the demise of legal pluralism: the condition of coexistence of two or more laws is replaced

by a single law. This is a process which has sometimes been lauded as contributing to the process of nation-building. It is clear that it is very difficult to achieve in a short time. A high level of knowledge of all the laws is necessary for unification. It is unlikely to come about except through elaborate legislation in each of the laws, since a great deal of consideration and calculation is needed to determine how to combine elements of the two laws.

The political force behind unification is a drive towards a society of a single culture. The desirability of this unification is controversial, and the issue is reflected in the arguments in many states today as to whether "multiculturalism" is desirable. If any form of unification is enacted in a state or other formal law, there remains a strong possibility that the regular conduct of subjects will continue to follow plural normative orders and the formal law will be disregarded.

The other policy which may be adopted by constituent laws towards legal development is that of integration. This was defined by Professor Antony Allott, the late Professor of African Laws in the University of London, as a process which "creates a law which brings together, without totally obliterating, laws of different origins."⁶ It differs from unification in that it entails the continuance of legal pluralism, but here, unlike the case of agglomeration, it is an ordered pluralism, regulated by reasonably clear norms for choosing between the constituent laws in each situation which arises. It is perhaps worth noticing that in the field of private international law attempts have been made, and are continuing, to ensure that conflicts between laws of different origins are avoided by the establishment of a generally accepted, ordered set of rules regulating relations between different state laws. There may be something to be learnt from private international law for use in producing integration in situations of legal pluralism.

Integration entails the *recognition* by one law of the other law. By "recognition" I mean that the recognizing law accepts, in any particular instance where recognition is given, that the other law is truly valid law which is to be observed. It seems to me convenient to classify instances of recognition into two categories, which may be called *institutional recognition* and *normative recognition*.

⁶ A.N. Allott, "What is to be done with African customary law?" (1984) *Journal of African Law* 28:56, 65.

Institutional recognition exists where a law accepts the existence of institutions of another law, and provides that the activities of those institutions produce legally valid effects. In these cases the law which grants institutional recognition withdraws from part of its own potential field of jurisdiction, conceding the vacated area of regulation to the other law. Instances of institutional recognition by state law occurred in British colonial territories under the name of indirect rule. This policy was for the conduct of some aspects of government through the local customary or religious authorities. It applied especially to local executive government and to judicial functions of dispute settlement. Thus decisions of local rulers and of traditional tribunals, according to local religious or customary laws, were regarded as determinative by the state courts and other institutions, and enforced by the state authorities. In these cases the policy of institutional recognition was often spelt out in state legislation. Institutional recognition may operate tacitly if the institutions of one law decline to exercise functions in cases in which those of another law are acting. Tacit or express, another clear instance of institutional recognition occurs in private international law when the courts of one state determine that the courts of another state alone have jurisdiction in a particular case.

This form of recognition is sometimes seen as threatening the recognising law with a loss of authority and control. It is for this reason that state laws less often concede institutional recognition in fields of activity where the principles of the state criminal law or of public security are in issue. On the other hand, it sometimes accords with other policies such as those of devolution of government to local institutions.

Normative recognition consists of the recognising law providing that in certain cases the norms of the other law will be applied by the institutions of the recognising law instead of its own norms. The norms of the recognised law thus become part of the recognising law. A widespread instance has existed and exists when state courts are required for certain cases to observe and enforce the observance of the norms of another law, either religious or customary or of another state. So for example one law may give effect to the norms of another law prohibiting blasphemy or disrespect to the ruler, and to the norms defining the conditions for the contracting of a marriage. Generally there is less likely to be recognition of criminal or public law norms of the other law because of the perceived importance of these fields in the maintenance of authority. However, a general control can be exercised by the

recognising law by provision for a sifting process. The recognising law may accept the bulk of the norms of another law in a field but follow a principle which excludes the recognition of some norms when they are thought to be contrary to fundamentally important principles of the recognising law. Such are the principles of *ordre publique*, repugnancy and reasonableness, all of which are applied in various state laws to limit the recognition of customary and religious laws and foreign state laws.

A major practical problem in normative recognition is that it often entails the application and enforcement within the recognising law of a body of norms which has been developed in a different social and legal environment and reflects different values. A simple, direct adoption of these norms into the legal environment of the recognising law is rarely possible. This is the aspect, in the field of law, of the problem for any culture of accommodating another culture with which it coexists.

An obvious aspect of this problem is that those who operate the institutions of the recognising law may be ignorant of its norms, may have no reliable sources of information about them, and may be ill-equipped to understand them when they do receive information. This aspect of the problem should be soluble through education and training. A more difficult aspect of the problem is the impossibility of fitting the norms of another law without modifying them into the institutional settings of the recognising law. An example, again taken from state law, is the difficulty of dealing with norms of another law which recommend conduct without either requiring it, in the sense of imposing a duty to perform it, or conferring a right on another person that it be done. State laws normally deal with duties and rights but do not know recommendations. Another example arises from the rules of some non-state laws on the process of contracting a marriage. In some such systems the process is lengthy, and may involve events in a number of places, even a number of different countries. But state law can accommodate only the notion of a marriage concluded in a ceremony occurring in a short period on a certain date and in one particular place. State law then demands that, for recognition to be given to a marriage, the state institutions should be given a specific date and place on which it occurred. So normative recognition, which sometimes appears in principle to be straightforward, also in experience presents problems.

In general it may be that institutional recognition gives less dissatisfaction in its functioning than normative recognition. But institutional recognition, because it continues the functioning of different

sets of institutions is more likely to leave uncertainties and even continuing power struggles.

It can perhaps be seen how recognition of one type or the other can be a major factor in integration of laws. Finally I would suggest that integration as an objective of a law in a situation of legal pluralism may fall into either of two sub-categories, although particular instances may consist of combinations of both. First, the law adopting this policy may aim to be dominant. Thus it may be ready to recognise the other law, the recognition being institutional or normative or both, but it may seek to ensure that the effective rules as to when recognition is to be given are made exclusively by the recognizing law. The problem here obviously is that the followers of the recognized law may be dissatisfied with the scope of the recognition. Secondly and alternatively, the law adopting the policy of integration may seek to achieve it by a process of negotiation. Negotiation may be complex and will not necessarily involve formally appointed representatives, and any agreement may be implied rather than express. But if it can be achieved the outcome will be that each law will adopt norms of recognition which are complementary to the other: each law will accept the independent validity of the other in the recognized fields; each law will follow the same rules for the determination of the law which is to be applied in any particular situation. This would be complete integration, although it should be added that globalizing and other forces are such that there is likely to be constant change in every law at least in terms of its application and interpretation in the more minor details of life, and that this would necessitate constant renegotiation of any programme of integration.

I should add that in my estimation it is unlikely that complete integration can be achieved by negotiated agreements. All the philosophies which form the foundations of laws contain some principles which are seen by their adherents as absolute. Western state jurists have for some centuries now worked to elaborate the notion of human rights, and it is widely asserted that there can be no recognition of any law infringing these principles. Religious philosophies hold to the principle that certain values derive from a higher source than any human source and so it is impossible for humans to derogate from them. It will always be difficult to negotiate integration where those absolute principles are involved.

So, with these comments on what may be possible I have travelled as far as I should in my examination of the subject today. Starting from a conventional lawyer's concern with state law, I have argued that

Globalization has reduced and is reducing the significance of State Law, while the various forms of Social and Religious Diversity found everywhere in the world, and also probably increasing in intensity, entail Legal Pluralism as a universal phenomenon, thereby reducing the significance of State Law within its claimed field of sovereignty. I have sought to observe all this, not to state preferences. I would reiterate that I have been concerned to consider what may be possible, if we so choose, as a necessary preliminary to the decisions which must be taken by all those participating in any way in lawmaking as to what ought to be their objectives. Ahmad Ibrahim had clear views as to the way in which he believed law and legal education in his country should be developed. He also believed that an analysis of history and of the potentialities inherent in the different varieties of existing laws were necessary for that development. I hope that I have been able to contribute slightly to our collective programme for legal development; and I am grateful for the opportunity to discuss these questions in the Faculty of Laws which he founded.