

Morning Meeting

PRESENTATION OF THE TOPIC

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I wish to begin by expressing appreciation to the Legal Counsel of the United Nations and his colleagues in the Secretariat for their efforts in organizing this important gathering. The United Nations Congress on Public International Law, which is the first of its kind in the history of the United Nations, is convened in our common endeavour to address one of the most pressing challenges that continues to confront the international community 50 years after the establishment of the Organization. Comparing today's reality with the aspiration exhibited by the main theme chosen by the General Assembly for this Congress—that is, "Towards the Twenty-first Century: International Law as a Language for International Relations"—would clearly illustrate the magnitude of this challenge as we enter the next millennium.

Clearly, the imperative for the rule of law in international relations has more than ever come to the forefront. The proclamation of the period 1990-1999 as the United Nations Decade of International Law, upon the initiative of the non-aligned countries, is indicative of the growing conviction among States, international institutions and world public opinion that in a highly interdependent world, everyone's interest is best served by a more principled and orderly system based on law. It further reflects the common aspiration that in the post-cold war atmosphere, the international community, spared from bloc rivalries, would move towards a new era of inter-State relations, in which the purposes and principles of the Charter of the United Nations could be realized, including, *inter alia*, the principles of justice and human dignity, universal commitment to and full respect for international law, international cooperation, respect for sovereignty, sovereign equality, territorial integrity and political independence of States, non-use of force in international relations and non-interference in the internal affairs of others. It also

illustrates that our achievements so far in this regard have not been satisfactory and that much work needs to be done in this respect.

The initiative of my country in 1992 to propose the convening of the United Nations Congress on Public International Law was based on a conviction that participation in the programme of activities of the United Nations Decade of International Law should not be limited to government representatives and should involve pertinent institutions, academicians and interested individuals. This would not only contribute immensely to the international promotion of the lofty objectives of the Decade, but would also significantly enrich the content of its programme of activities. It is a source of encouragement to witness the participation in this Congress of so many highly distinguished individuals from the various sectors involved in public international law.

This Congress is indeed a unique event as well as a unique opportunity. It aims to promote the objectives of the United Nations Decade of International Law with the ultimate goal of strengthening the rule of law in relations among nations, which is an essential factor in the preservation of peace and security in the world. It is also one of the substantive activities leading to the commemoration of the fiftieth anniversary of the United Nations. I submit that every effort should be made to take maximum advantage of this rare opportunity to introduce, consider and evaluate innovative ways and means for worldwide promotion and implementation of the objectives of the Decade and this Congress—that is, international law as a language for international relations in the twenty-first century. This directly brings us to the subject under discussion today, namely, “The principles of international law: theoretical and practical aspects of their promotion and implementation”.

Let me now make a few preliminary comments on today’s topic with the hope that a stimulating, constructive and fruitful debate on these and other related issues will follow in the course of the day.

First: It is evident that in our contemporary world, States do not enjoy absolute sovereignty. The old theory of absolute sovereignty fitted in with the actual conditions of international society during a certain period in the past. Today the circumstances are totally different. In place of an “anarchy of sovereignties”, we have a society of interdependent States, bound by international law. They are not only bound by freely accepted obligations, but also by the generally accepted principles of international law.

It should be underlined that sovereignty creates international law, and that law recognizes sovereignty as its foundation and a basic principle. In other words, the law of nations is not one enacted by some higher authority

However, it does not depend on the discretionary will of States to determine whether or not they should abide by the rules of international law. Once a State undertakes certain obligations through treaties or agreements, it is bound to fulfil them.

Let me stress that upholding the supremacy of international law in international relations is instrumental in, and indeed an indispensable prerequisite for, the preservation of world peace and security. The programme of activities of the Decade calls upon all States to act in accordance with international law and the Charter of the United Nations. The same applies to groupings of States, particularly international organizations, whose behaviour and decisions must be governed by and be compatible with norms and principles of international law as well as their pertinent constitutional instruments. International organizations have been encouraged, in the programme of the Decade, to promote acceptance of and respect for the principles of international law. In my view, this is an important and pertinent recommendation, which must be kept fully in perspective, both in words and programmes, but, what is more important, in deeds and decisions.

While on the subject of sovereignty and supremacy of law, I should like to mention an issue of direct relevance to our discussion today, which is also currently on the agenda of the International Law Commission, namely, unilateral reaction or countermeasures in response to an internationally wrongful act.

It is clear that in a well-organized world system based on the rule of law, decentralized reaction to breaches of principles of international law cannot be permissible, since in that case each State would take the law into its own hands and be the judge of its own conduct. Obviously, the very nature of these unilateral measures, especially those of a punitive character, seems to be detrimental to the cause of promotion of and respect for the principles of international law. Let me simply observe that, in the light of prohibition of the use of force in international relations, as well as the emergence of new opportunities for more effective use of existing mechanisms and procedures for peaceful settlement of international disputes, avenues for permissible countermeasures have been strictly narrowed down.

Second: As we all know, international public opinion is a determining factor in enforcement and implementation of accepted norms of international law. Clearly, mass media have a significant role and responsibility in fostering confidence in and respect for international law among the world public.

However, the collective behaviour of States and other influential actors

international law and in overcoming the predominant scepticism about the actual rôle of law in inter-State relations. Thus, an effective, appropriate and non-discriminatory reaction of States, international organizations and relevant institutions against breaches and violations of universally accepted norms of international law would bring about confidence and predictability and hence promote, enormously, acceptance of and respect for the principles of international law. On the other hand, lack of proper response to illegal behaviour would encourage further violations, thus undermining and eroding the very relevance, authority and applicability of the violated rule and of international law in general. It would also exacerbate the existing dichotomy between legality and political reality.

Two contemporary examples come to mind. In one, lack of effective reaction by the relevant international body in dealing with an act of aggression encouraged the perpetrator to commit another aggression in one decade. In the second case, indecisiveness and a selective approach in dealing with aggression and genocide against the Republic of Bosnia and Herzegovina are at least partially to blame for the persistence and prolongation of the tragedy and certainly for the loss of many people's faith in the mechanisms of international legality.

Thus, the commission of an act of aggression, genocide or other grave breaches of international law cannot and should not be tolerated for any reason or political consideration, regardless of relations with the victims or the culprits. Lack of political will to cope with the perpetrators of such inhuman crimes or with the violators of the basic norms that govern relations among nations definitely undermines the faith and confidence of people around the world in the ability of international law to protect them, a belief that is detrimental to the objective of promoting the rule of law in the world community.

Third: Our world is increasingly confronted with a variety of old and emerging hard-core issues, such as poverty, starvation, underdevelopment, accumulation of arms in different regions of the world, the threat posed by the existence and proliferation of weapons of mass destruction, environmental degradation, etc. They threaten the very lives of millions of human beings. The international community is required, therefore, to move in the direction of overcoming these difficulties and finding practical and equitable solutions for them.

The progressive development of pertinent and universally acceptable norms of international law, as required by the circumstances, would contribute to fostering the necessary confidence and reasonable predictability which

It should be noted here that meeting the legal commitments undertaken to address some of these emerging and mostly complex challenges, such as protection of the environment, often requires resources, particularly financial and technological ones, which should be made available. Therefore, stress must be placed on balanced and mutual fulfilment of commitments and undertakings by all sides.

Fourth: In developing applicable rules to meet the new challenges, the international community must pay due attention to diversities of backgrounds and conditions in the social, political, economic and cultural fields. It should ensure that the major legal systems play their proper role in law-making and keep the interest of all in perspective. Common prosperity is an objective that should be pursued in our endeavour to make a safe and peaceful world. It is self-evident that appropriate attention to these fundamental considerations in the future development of international law would strengthen and enrich its norms, broaden their participatory base and thus their legitimacy, make them more universally applicable and thus promote respect for and acceptance of them across the globe. Thus, to use the concepts of the just-concluded World Summit for Social Development, "inclusion, empowerment and participation" should also apply to international law-making.

Examining the experiences of 50 years of law-making in the United Nations, one comes to the conclusion that the contribution of the developing world to this process has not followed a steady pattern. We in the third world have proven capable of influencing and indeed giving direction to the process, when we have exerted a unified and concerted effort in achieving our objectives. For instance, rapid and near-total decolonization confirmed self-determination as an established principle, which was successfully included in various international instruments. Likewise, our dedication to the struggle against apartheid and our determination to make it a generally accepted norm have borne fruit.

At the same time, however, our other objectives regarding other hard-core issues facing the world, and in particular the developing countries, have yet to be realized. One must confess that overcoming those difficulties, particularly owing to the political nature of the law-making process, is not an easy task. But this should not prevent us from mobilizing the necessary expertise in order to participate actively and effectively in the law-making process and ensure, ourselves, that our needs and interests are taken into account.