

AMERICAN SOCIETY OF INTERNATIONAL LAW

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“THE VISIBLE COLLEGE OF INTERNATIONAL LAW”

**PANEL ON INTERNATIONAL LAW
IN THE
AMERICAN LAW SCHOOL**

“A Law Degree without International Law?”

REMARKS BY

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The question that this panel is to address is: What are the past, present and future roles of international law in the American Law School?

Since I am the Legal Counsel of the United Nations, I would like to focus on the present and, in particular, on the future. But precisely because of my position in the United Nations, my perspective will be international, because it is in this perspective that the role of international law should be seen in *all* Law Schools, including American ones. My remarks are personal and do not necessarily reflect the views of the United Nations.

My point of departure is a question: "A Law Degree without International Law?" I will answer this question by addressing another four:

- Why is teaching international law so important?
- How should international law be taught?
- What should be the contents of the teaching?
- How does the United Nations contribute to the teaching of international law?

Why is teaching international law so important?

I find our theme highly topical. I readily confess that when I attended law school, my focus was very much on national law. I had not thought of a career other than within my own country. During many years in the judiciary and later in the Ministry of Justice, my attitude towards international law was relatively reserved. In comparison with the national legal system, international law seemed vague and of such a nature that it would always have to yield to the Constitution and to the laws adopted by the Parliament.

However, with time and with a rather dramatic change in my professional career, I have come to a completely different conclusion.

There is no way that we can deal with all the complex issues in global society if we confine ourselves to our old and home-made national legislative exercises. It is simply not possible to continue without commonly agreed international standards in areas where we interact and where we will do so even more in the future.

Consequently, the teaching of international law becomes an extremely important issue. International law will influence most fields of law, including setting standards in many areas where traditionally legislation has been strongly, if not entirely, shaped by local traditions. In particular, international standards in the field of human rights will play an important role.

Furthermore, contrary to the “traditional” impression of most law students that job opportunities in the international law field are limited (or at least restricted to international commercial law), the situation is changing. Over the last decade, we have witnessed an increase in the numerous entities that operate at the international level across all fields of international law. I could mention as examples the international criminal tribunals and non-governmental organizations in the disarmament and environment fields.

These institutions suggest new opportunities for young international lawyers; they each have their in-house legal teams that deal with a variety of legal issues, ranging from contractual and procurement matters to formulating positions and legal opinions on questions of international law.

Because of this, Law Schools should consider developing basic courses in international law, as well as specific courses in particular areas of international law as additional career-track options for their students.

I had, of course, for a long time realized that international law was not a major subject in most law schools. However, it was not until I read John King Gamble's book *Teaching International Law in the 1990s* that I understood that the situation even in the United States was not altogether satisfactory.¹ I will not quote the statistics in this book; the situation might have changed since the early 1990s. But I know that there is room for much improvement.

How should international law be taught?

Obviously, teaching will in most cases have to be in the traditional form. However, several factors must be taken into consideration here.

First of all, international law is by its very nature universal. Therefore, the teaching would have as a point of departure the common international system. This means that the teaching materials – books, videotapes, audio tapes, etc. – can be used in many countries, depending on the level of knowledge of foreign languages in the country in question. I assume that the teachers of international law would form what is nowadays referred to as an epistemic community, and that an extremely fruitful cooperation could be established across borders, if it does not already exist.

From my viewpoint in the United Nations Headquarters, I had come to the conclusion that an initiative on my part might be of some help here. Therefore, on 6 June 2000, I took the liberty of sending an appeal to the Deans of Law Schools worldwide, encouraging them to include international law in their curricula.

Since these curricula should be established in academic freedom, I enlisted the support of several distinguished scholars in international law, namely: Professor Nisuke Ando (Japan), Professor John Dugard (South Africa), Professor

Thomas M. Franck (U.S.A.), Professor Maurice Kamto (Cameroon), Professor Francisco Orrego-Vicuña (Chile), Professor Alain Pellet (France), Professor Bruno Simma (Germany), Professor Birgitte Stern (France), and Professor Christopher Weeramantry (Sri Lanka).

Professor Sharon A. Williams of York University in Toronto (Canada) declared that she was prepared to assist. Her task would be to create contacts and see to it that as many people as possible could be engaged in this endeavour – in short, to act as a focal point. My hope is that this coordination could be a first step towards the creation of a “Worldwide Law School Network”.

In this context I should like to correct a misunderstanding. I have heard that, in some countries, there was disappointment that no representatives from their country were listed in my appeal. I would therefore emphatically state that my purpose was, basically, to find representatives from all regional groups in the United Nations. My hope was that, as soon as the project was launched, more scholars would be added to the list.

As a matter of fact, there have been several contacts with my office, and Professor Williams has received additional communications. It is my intention to update the list of interested scholars and post a new version on my website.²

We must also recognize that there are several highly distinguished and well-known Law Schools in the world, which, on their own, make a tremendous contribution to the dissemination of knowledge of international law. This is done partly by accepting scholars from developing countries who are trained in international law with a view that they should be able to contribute in this field when they return to their home countries.

It is important, though, to bear in mind that even if there is interest, it may be difficult to have a special Chair for international law at every Law School in the world, at least at present. How to remedy this?

In my view, we should examine to what extent technology – radio, TV and other electronic means – can be used to disseminate information. I know that the University for Peace, a United Nations affiliated University located in Costa Rica, which has looked specifically at these methods of teaching.³ I should, therefore, like to encourage Mr. Martin Lees, Rector of the University for Peace, to participate in the initiative. Maybe the University for Peace could stand as a host for an “electronic university” focusing on international law? I know that the university is presently developing programs on international law and human rights.

I have also been encouraged by contacts with the academia in the Russian Federation, which I visited in November last year, and by the Law School at the American University here in Washington. I should, in particular, like to mention Professor Oleg N. Khlestov, Vice-president of the Russian Association of International Law, Professor A. J. Kapustin, Dean of the Law Faculty of the Russian Peoples’ Friendship University in Moscow and Head of the Chair of International Law, and Professor Claudio M. Grossman, Dean of the Washington College of Law at the American University here in Washington.

The challenge that presents itself here is, of course, to establish suitable curricula in languages that as many students as possible understand. The question is also how to conduct the examinations process so that students can demonstrate in their diplomas, transcripts or examination certificates that they actually took the course in question. If teachers are not available at their University, this may mean remote testing and examination. Can this be done? This is a common problem, where experience could be drawn from almost any academic field.

What should be the contents of the teaching?

The question is then what should be the contents of the courses taught. Here I should like to emphasize again that this is a matter for academia. I think that it is very important that Law Schools develop their curricula in full academic freedom. Attempts have been made in the past to establish standardized curricula. In my appeal to the Deans of Law Schools worldwide I made reference to one.⁴

Probably, more can be done in this field. I know that it is not easy to agree among professors. Some years ago I managed to raise some funds to establish a "Pocket Library" for legal advisers in Ministries of Foreign Affairs in developing countries. A group of Professors were asked to select the literature. I have a feeling that it was quite an exercise for them to produce a common list.

Every effort should, however, be made to draw up curricula that can be used in as many Law Schools as possible. An alternative is, of course, to draw up a standard curriculum that can be used for remote teaching, and I would very much hope that some of the persons that I have been in touch with would like to engage in this exercise. I look again to these scholars that I have enlisted for the appeal and to the University for Peace in Costa Rica and the American University in Washington.

Because of the fact that this should be an academic exercise I will not dwell upon this element further, but rather focus on the contribution of the United Nations.

How does the United Nations contribute to the teaching of international law?

The United Nations contributes to the encouragement and facilitation of the dissemination and wider appreciation of international law in several ways. One is the Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law. This Programme includes: the organization of courses and seminars on various subjects of international law; the preparation and issuance of recurrent and ad hoc legal publications; the continuous updating of the web sites of International Law; and maintaining and expanding the United Nations audio visual library in international law.

The efforts also include courses and seminars on various subjects of international law for primarily young government officials dealing with issues of international law and young professors and teachers in international law, in particular from the developing countries. The following could be mentioned.

The international law seminar in Geneva during the session of the International Law Commission (807 participants since 1965); summer seminars organised together with The Hague Academy of International Law (fellowships to participants from developing countries); regional seminars (in the year 2000 in Teheran for countries from Central Asia and the Middle East in which 26 fellows from 14 countries of the region participated).

Furthermore, there are UN legal publications, which may be used for the teaching of international law:

- *United Nations Juridical Yearbook;*
- *Yearbook of the International Law Commission;*
- *Legislative Series;*
- *United Nations Reports of International Arbitral Awards;*
- *Repertory of Practice of the UN Organs;*

There are also other ad hoc publications on public international law, such as:

- *Collection of Essays by Legal Advisors* (published in 1999 to mark the end of the UN Decade of International Law);
- *The International Law Commission Fifty Years After* (published in 2000);
- *International instruments related to prevention and suppression of international terrorism* (published in 2001 to facilitate the work of the Ad hoc Committee to combat international terrorism);
- *United Nations and the Development of International Law during the 1990's* (will be published in 2001).

I should also like to draw attention to the UN International Law web site, in particular the web sites of the *International Law Commission*, the Preparatory Commission of the *International Criminal Court*, the *Sixth Committee* and on the *Codification of International Law*. These sites contain comprehensive information concerning recent sessions of the main UN bodies involved in the progressive development and codification of international law, which may be used for the teaching of international law.⁵

The UN audiovisual library in International Law (administered by the Codification Division of the United Nations Office of Legal Affairs) contains audiovisual tapes for the purpose of instruction in the various topics of international law. The Library's employment of audiovisual technology is a cost-effective way to bring knowledge of international law to a global audience. We are able to loan the tapes to governments and educational institutions upon request.

The Answer

I revert to my question: “A Law Degree without International Law?” The answer is obviously No!

However, one should not oversimplify. That is why I think that we have to look at the problem with some perspective. In many countries resources are scarce and we all know that the majority of the lawyers that graduate from Law Schools will in practice focus very much on national law. This is natural. But even if this is so, it is important that the legal profession in any country is fully conversant with international law. It is also important that lawyers who assist Governments and Parliaments are well versed in international law. I would suggest that it is in these institutions that knowledge of international law is most important. We all know that even in the best quarters there is much to be done before we can be satisfied that international law plays the role it should in the decision making of national administrations.

If we embark upon this endeavour, I am also convinced that we will almost as a by-product, develop an international community of lawyers who are joined together by the same interest. It is therefore important that those who study international law do that as an element of their national legal training. I think we would fail, if we simply develop an exclusive elite around the world who is focusing solely on the topic of international law.

What we should aim for is a legal profession in all countries, involved in all the various aspects of the legal work at the national level as it should, but with a common denominator: a basic knowledge of international law. If this comes true, these lawyers will have a common language with which they can communicate in solving issues that may not even be primarily of an international law nature.

Ultimately, the goal we are striving for is international law as a language for international relations, as was discussed at the United Nations Congress on

Public International Law held at the United Nations Headquarters in New York from 13-17 March 1995.⁶

I should like to commend the American Society of International Law for its interest in the teaching and wider dissemination of international law. It is through Societies like yours that the spirit is kept up and it is through the altruistic work of all the many members in these Societies that we will see results in the future.

I therefore encourage the American Society of International Law and your sister Societies in other countries and academia to join hands to work for a noble cause in the interest of mankind.

¹ John King Gamble, *Teaching International Law in the 1990s*. Survey of Academic International Law Project of the American Society of International Law under the sponsorship of The Ford Foundation. Studies in Transnational Legal Policy No. 24. The American Society of International Law, 1992.

² I refer to <http://www.un.org/law/counsel/info.htm> The appeal was also published in the ASIL Newsletter of July–August 2000.

³ info@upeace.org

⁴ Many scholars have elaborated comprehensive curricula with different emphasis, reflecting their own interests. One curriculum that may serve as a model or stimulus for English speaking students can be found in the Yearbook of the Institute for International Law, Vol. 67, Session de Strasbourg, 1997 (pages 123 – 219). There are also institutes and academies that can assist in this respect, e.g. The Hague Academy of International Law.

⁵ <http://www.un.org/law>

⁶ See my opening statement at the Congress in: Proceedings of the United Nations Congress on Public International Law. Kluwer Law International, 1966. Also reproduced in: UNEP's New Way Forward: Environmental Law and Sustainable Development. UNEP, 1995.