

**SPEECH OF HIS EXCELLENCY, JUDGE ABDULQAWI A. YUSUF,
PRESIDENT OF THE INTERNATIONAL COURT OF JUSTICE,
TO THE LLM GRADUATING CLASS AT IUHEID**

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1. Good afternoon.

2. I am happy to be able to address you today.

3. I can imagine what a great day it is for all of you and for your families and friends. Therefore, I say to you, first of all, congratulations. Well done. I know how much effort, how much energy, how much anxiety and expectation goes into the completion of a degree programme. This is especially so in light of the ongoing COVID-19 pandemic, which has taken so many lives and caused so much suffering around the world and has undoubtedly also affected the end of your studies here at the Institute. But you have made it. You are here today to celebrate. So, no more anxiety. Let us put it aside, at least for a while.

4. I was actually a student at the Institute back in the late seventies and early eighties of the last century. At that time, there was no LLM programme being offered at the Institute. But I have read the curriculum of your programme, and it covers exactly what young aspiring international lawyers need in terms of training. It is very important to be educated in the fundamentals of the discipline. With your training at the Institute, you have acquired a solid basis in international law. You are now equipped with the tools that will enable you to face whatever challenges may be, and will be, thrown your way in the field of international law.

5. When I was studying here, at the Institute, the challenges confronting international law felt very different. International law was still struggling to find its feet as a universally recognized system of law. It was confronting problems because of the profound sociological changes in the international community of States.

6. First, the membership of the United Nations more than doubled from 1950 to 1970. Professor Bert Röling, of the University of Groningen in the Netherlands, had published in 1960 his famous book *International Law in an Expanded World*, and Professor Wolfgang Friedmann of Columbia University in the United States wrote around the same time his book on *The Changing Structure of International Law*. Others were more skeptical. In 1970, Judge Gerald Fitzmaurice wrote his dramatic and pessimistic Report on the future of international law for the 100th anniversary of the *Institut de droit international*. It was in stark contrast to the views of Röling and Friedmann and painted a picture of a bleak future for international law, in case the viewpoints of the newly independent States were accommodated through multilateral treaties of codification or the resolutions of the United Nations General Assembly.

7. Others like Professor Georges Abi-Saab of the Institute and Professor R.P. Anand of Delhi University were writing about the international law perspectives of the newly independent States and the need for the promotion of the universality of international law.

8. At the Academy of International Law in The Hague, courses on Islam and International Law, Buddhism and International law, and Asian States and International Law were being given by distinguished international lawyers from various parts of the world, in order to show that international law was not a European or western invention and that a law of nations had been developed in many other parts of the world.

9. Secondly, this robust doctrinal debate was not taking place in a vacuum. The International Court of Justice had just issued two diametrically opposed judgments: one, on the *South West*

Africa cases, reflected the old euro-centric international law and failed to take into account the sociological changes in the international community, and a second, more progressive and more forward-looking one, on the *Barcelona Traction* case, introduced among others the notion of *erga omnes* obligations in the jurisprudence of the Court. *Barcelona Traction* was soon to be followed in 1971 by the Advisory Opinion on *Namibia*, which recognized the right of peoples to self-determination and thus took into consideration the legal effects of resolution 1514 of 1960 on the development of international law.

10. Thirdly, at the United Nations, there were resolutions such as the one on “Permanent Sovereignty over Natural Resources”, a revolutionary and ground-breaking resolution that has not, however, had as much effect and success as resolution 1514 on the international level or even the domestic level. And perhaps even more importantly, resolution 2625 on the Principles of International Law concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations adopted in 1970, made a lasting impact on the future of international law, elaborating on the fundamental principles enshrined in the Charter of the United Nations.

11. Fourthly, the debate on a New International Economic Order was still alive in the United Nations system, and we all felt, as we participated in seminars at the Institute or attended lectures, that we were parties to the debate since not a single day passed without a discussion of the issues underlying the demand for a New International Economic Order in our classes.

12. As you can imagine, this was a period of change in international relations and international law, and we — my colleagues and I — felt that we were participants in these major historical upheavals and that we had a role to play in them, particularly with regard to the universalization of international law, and the need for it to better reflect the perspectives and viewpoints of all the members of the international community, including those who suffered enslavement and colonization because of the doctrines of international law promoted by European powers in the 18th and 19th centuries.

13. The questions on our minds were: What kind of international law was going to take root in the new international society that emerged after the Second World War, and in particular after the independence decades of the 50s and 60s of previously oppressed peoples in Africa, Asia, and the Caribbean? Was it going to be a law that reflected the values of this new diverse and complex international community or was it going to be the same old homogenous euro-centric public law of Europe with a few tweaks here and there?

14. Was the widespread codification exercise undertaken in various international conferences going to be simply a transcription of old customary norms developed in Europe or was it going to lead to the development of the rules of international law and accommodate the perspectives and values of the newly independent States?

15. We, therefore, had our minds totally wrapped around decolonization, human rights (with the two covenants coming into force at the time) sovereignty over natural resources, more equitable and more just international trade, monetary and investment relations, etc. As young international lawyers, or aspiring international lawyers, we had the feeling that we could make a difference in the world if we contributed to the development of international law, which would in turn, in our view, bring about more equitable and fairer relations among States. And we were not the only ones, because there were thousands of delegates all over the world who were earnestly engaged in negotiations on new multilateral instruments aimed not only at codifying international law, but also at further developing and reforming it.

16. I was personally lucky to have been involved as a Somali delegate, while doing my studies at the Institute, in one of the most important exercises of this kind. This was the Third

United Nations Conference on the Law of the Sea, which gave us what we call today UNCLOS, the Montego Bay Treaty or the Constitution of the Oceans.

17. Today, the world is quite different from that of the 1960s and 70s, or even the 80s. You are going to face a much more complex world, in which the values of the United Nations Charter and the aspirations for freedom and equality of peoples all over the world following the independence decades have moved to the background and to a certain extent faded.

18. A world in which the multilateralism that characterized the system of international relations, after the Second World War, is being challenged, even at the time of the COVID-19 pandemic.

19. A world in which the State is no longer the only or the most prominent actor at the international level, but other actors, such as transnational corporations, are playing a role that is sometimes more important and more influential than that of States. Indeed, a world in which human rights and the dignity of the human being is to be defended and upheld not only against the State, but also against corporations, some of which now extract value from the future behaviour of human beings and trade in information gathered from all the users of their products.

20. Of course, the extraction of natural resources from various parts of the world is still an issue in international law and in the relations between States and corporations, and the principle of permanent sovereignty over natural resources is as relevant as ever; but the private data of individuals and information on their behaviour, their likes and dislikes, has also become a resource to be extracted, exploited and traded in the market place all over the world, and this raises the question of how to protect the dignity, the humanity and the privacy of human beings, who willingly provide such information to the corporations that turn it into a tradeable commodity?

21. We have developed over the years all kinds of human rights instruments aimed at protecting human rights and human dignity from the mechanisms of the State. The State was perceived as a Leviathan, and human beings had to be protected from the abuse of power in the hands of such a Leviathan. Of course, that assumption is still correct, and human rights instruments are not only relevant today, but indeed topical, as you see from protests against police brutality all over the world, particularly when such brutality is inflicted upon people because of their race or ethnic origin. But, as international lawyers, you will now be faced with new phenomena, for example, in which human behaviour and private data become a commodity, and human beings become objects from which raw materials — in the form of behavioural data — is extracted, expropriated, and turned into products to be exchanged in the marketplace. This is a phenomenon that is not regulated under human rights instruments, but the earlier we can come to grips with it the better it will be for humanity and the dignity of the human being. Legal defenses need to be built against abusive behaviour arising from the use of such technological tools.

22. In the field of environmental protection and climate change, as well, the State is no longer the sole or most important actor. Corporations play a disproportionate role, and many States in the world, particularly those in the South, find themselves in a weak position vis-a-vis some of those corporations. They cannot regulate their behaviour domestically. It is impossible to successfully fight global warming without the participation of major corporations, particularly those active in fossil fuel production linked to greenhouse gas emissions. But, is self-regulation reliable or effective or do we need international standards and rules that can be enforced universally to deal with behaviour contributing to environmental pollution and climate change? This is another challenge that you will face as international lawyers.

23. Finally, as I said earlier, when I was studying international law, multilateral organizations, such as those in the United Nations family, were celebrated and looked upon with admiration. They were viewed as agents of change and of human progress. They had the trust of all nations which actively contributed to their work and participated in their activities. Today, we see

them berated in certain quarters, we see their role belittled, and we see trust in their contributions and mandates waning.

24. We do not, however, have anything to replace them with. We cannot go back to the world of the bilateralism of the 19th century to fight COVID-19, or to communicate with each other globally, or to travel safely by air around the world, or to trade with each other. It is not an option. We might need to update and modernize the tools at the disposal of these multilateral organizations, but we cannot do without them. We therefore need creative legal thinking; we need new or updated instruments that can bring about their reform, their improvement, and their modernization. As newly minted international lawyers, you will have to play a role in bringing about such change.

25. The outlook for our profession, of international law, therefore involves both challenges and promises. I have already mentioned some of these challenges. There are many others, but we do not have much time for them today. I am quite sure you are already aware of them.

26. Let me turn briefly to the promises. You are embarking on a profession which has a lot of promise, and a great future in the world. We all live, whether we like it or not, in a globalized world. We all depend on each other. It is a world of total interdependence. When a new infectious disease develops in any part of the world, however remote it may be, it does not take much time before it appears in other parts of the world. When human rights and human dignity are violated in any part of the world, we all feel concerned and affected one way or the other. When new products are marketed or invented in one part of the world, we all know about them the next day, and many of us want to use them.

27. We cannot do without mass transportation all across the world, mass communication throughout the world, multilateral trade and investment throughout the world, cultural co-operation throughout the world, and the protection of cultural and human heritage. But all of this requires international legal rules. We cannot travel by plane, use the internet, use Zoom to hold virtual meetings, engage in international trade and investment, maintain diplomatic relations and dialogue without the web of multilateral rules that regulate and inform all those activities. We cannot have the disputes arising from all those activities settled without the interpretation and application of international legal rules. International law is alive and well. It is needed today more than ever before. Thus, your skills, your knowledge, and your contribution will be needed more than ever before throughout the world.

28. There were not many professional options for an international lawyer when I graduated from the Institute, except to work for a government or an intergovernmental organization, or to teach at a university. Today, everybody, everywhere is looking for international lawyers. The number of international lawyers working in law firms all over the world keeps growing, and there is hardly a major law firm, or a major corporation, worthy of its name, that does not have international lawyers working with it. You have a much wider horizon open before you, and you have much better professional options and possibilities than my generation of international lawyers.

29. So, my advice and hope is that you will take advantage of these opportunities and make use of your skills in international law in a positive manner. Use it for the benefit of humanity. Use it for peace and development. Use it for progress and the protection of human dignity everywhere in the world. Use it for the protection of our planet, of our environment. Use it to make our world a better world and to preserve it for future generations.

30. Thank you, congratulations again, and best of luck.
