

**KEYNOTE SPEECH OF JUDGE ABDULQAWI A. YUSUF,
PRESIDENT OF THE INTERNATIONAL COURT OF JUSTICE**

**INSTITUT DE DROIT INTERNATIONAL,
THE HAGUE, 26 AUGUST 2019**

Your Royal Highness Princess Beatrix of the Netherlands,
Excellencies,
Chères consœurs,
Chers confrères,

1. I would like to extend to you a very warm welcome to the Peace Palace and the International Court of Justice. It is a great honour for me to address the *Institut* here at the International Court of Justice, exactly twenty years after my election as an Associate Member at the Berlin session.

2. At the entry gates of the Peace Palace, you were discretely welcomed by four bronze medallions adorned with personifications of goddesses *Amicitia*, *Concordia*, *Pax* and *Justitia*. In addition to *Iustitia et Pace*, the motto shared by the *Institut* and The Hague, the host city of this session, I would therefore like to place our meetings under the auspices of *Amicitia* and *Concordia*. It is indeed the mission of the *Institut* to foster civility, concord and cooperation among nations through the clarification of the rules governing their relations.

3. After all, and let us get this clear at the very outset, the *Institut* is not a self-styled elitist club indulging in Byzantine discussions about questions of purely theoretical or abstract nature. To the contrary, its work has a direct and practical impact on the daily life of peoples and on relations among States. The award of the Nobel Peace prize to the *Institut* in 1904 bears testimony to this practical impact. The very creation of the *Institut* was a reaction to the prevailing state of international law after the Franco-Prussian War of 1870. In a leading article advocating for the creation of the *Institut*, Mr. Rolin-Jacquemyns observed the failure of European sovereigns to convene international conferences to adopt multilateral treaties governing their relations, and lamented the uncertainties and lacunae in the law, as well as its complete ignorance by those in charge of its application. Much has changed since then, but some of these words are relevant for the realities of today.

4. The twentieth century turned out to be a time of profound change for the international legal system. On the one hand, the century marked the evolution of international law from a system that was applicable only among a small circle of European States — as indicated in Rolin-Jacquemyns's article — to one that has a credible claim to be a universal legal system; one in which States from all corners of the globe participate, thanks to decolonization and the emancipation of previously oppressed peoples. On the other hand, international law moved away from a Westphalian, State-centered system towards a legal order that recognises and responds to the needs of a plurality of actors, including international organisations, individuals, and corporations. These are only two of the many challenges that the *Institut* had to deal with in the past century.

5. Today, new challenges are rearing their head. The resilience of international law is being tested in some quarters. We see attempts to put into question what the Court described in the *Corfu Channel* case as “elementary considerations of humanity, even more exacting in peace than in war”, on which certain international obligations are based (*Corfu Channel case (United Kingdom of Great Britain and Northern Ireland v. Albania), Judgment, Merits, I.C.J. Reports 1949*, p. 22). We also see the sanctity of treaties and *pacta sunt servanda* increasingly under tension, as international treaty commitments are repudiated virtually before the ink has dried on the paper on which they were written, and Multilateralism is shunned.

6. Institutions, like the *Institut*, dedicated to the advancement of the core values of humanity and the consolidation of the rule of law at the international level, should not be distracted by noisy unilateral actions, however disturbing they may be. The “edifice of law carefully constructed by mankind over a period of centuries”, to which the Court referred in the *Tehran hostages* case, stands solid and strong. Its pillars will resist isolated voices of discord and will outlive those who might be trying to shake them.

7. To those who question the centrality of international law to our daily lives and to the well-being of humanity, we can offer a few examples of why international law matters; for they certainly need some enlightenment on this matter.

8. International law matters because no digital communications, no weather forecasting, no transmission of radio and television across the globe, no internet or telephone connections, could take place without the web of multilateral rules governing the positioning of satellites in orbit, radio frequency spectrums and the laying of submarine cables. We would not have been able to fly to this meeting from all over the world, or have goods transported by air to the far corners of the globe, without the uniform and predictable rules relating to civil aviation and the carriage of passengers, baggage and cargo by air.

9. International law matters because financial flows between countries, and international trade flows would come to a virtual standstill or face enormous difficulties if complex multilateral rules such as those of the BASEL III regulatory framework for banks, or the GATT and WTO rules were not in place.

10. International law matters because no State can fight alone and all by itself, global terrorism, climate change, or the ozone layer depletion, however powerful it might be. No State can isolate itself from the rest of the world. No State can rely solely on unilateral actions in its interactions with others. We all know how the isolationist experiment of the *Khmers Rouges* ended.

11. Finally, international law matters because the peaceful settlement of disputes among States, through the law, is an acquis of human civilization. With the prohibition of war as a means of dispute settlement by the UN Charter, humanity has achieved in the past 74 years an unprecedented level of development, prosperity and cooperation in all spheres of human endeavour. Barbarism has been kept at bay in most parts of the world. This has made it possible that an unparalleled amount of energy and resources have been devoted to education, science, technology, the arts and literature to improve the human condition throughout the globe. What Mahatma Gandhi had advocated in his letter to Adolf Hitler of 24 December 1940 is being practiced by many. And I quote the relevant passage from that letter :

“I appeal to you in the name of humanity to stop the war. You will lose nothing by referring all the matters in dispute between you and Great Britain to an international tribunal of your joint choice. If you attain success in the war, it will not prove that you were in the right. It will only prove that your power of destruction was greater. Whereas an award by an impartial tribunal will show as far as it is humanly possible which party was in the right.”

12. The International Court of Justice was established for that very purpose and many disputes are being referred to it today before they lead to destruction and war. This brings me to the recent activity of the International Court of Justice which is best summarized by the words of Ben Ferencz, the last surviving Nuremberg prosecutor, as follows:

“There can be no peace without justice, no justice without law and no meaningful law without a Court to decide what is just and lawful under any given circumstance.”

13. The Court enjoys today, more than ever before, the trust and confidence of nations from all over the world. We are proud of that trust which has been progressively secured thanks to the meticulous work of the Court. At this very moment, sixteen cases are pending before the Court. Those cases involve 26 nations from all parts of the world: 5 European countries, 6 African countries, 9 Latin and North American countries, and 6 Asian countries. Since the last session of the Institute in Hyderabad in September 2017, the Court has rendered five judgements on the merits and one advisory opinion, two judgements on preliminary objections, three orders on requests for the indication of provisional measures, and one order on counter-claims.

14. Cases brought to the Court increasingly involve disputes that raise particularly thorny issues in a politically sensitive context. The number, diversity, and importance of these cases are a testimony to the increased significance attached by States to the resolution of disputes in accordance with international law.

15. Two recent developments in the practice of the seisin of the Court deserve to be highlighted here. The first one is the seisin of the Court in the case concerning Guyana and Venezuela following a decision by the Secretary General of the United Nations. This was the first time that a case came to the Court after a determination made by the UN Secretary-General. The second one relates to the dispute between Guatemala and Belize concerning *Guatemala's Territorial, Insular and Maritime claims*. What is unique about this case is that the two governments decided to consult their respective populations through referendums on whether or not their 200-year old territorial and maritime dispute should be submitted to the Court for settlement. The great news is that the peoples of both countries have overwhelmingly expressed their confidence in the Court and approved the submission of the case to it, which occurred in May this year.

16. To go back briefly to the words of Rolin-Jacquemyns lamenting the lack of conferences to adopt multilateral treaties and lacunae in the law towards the end of the 19th century, it is interesting to note that both issues are before us today. The *Institut* may, therefore, have to address in its future work both the pressures on multilateralism and the lacunae in law arising from rapid technological advances. Issues such as unilateral “sanctions” which have mushroomed lately, space-mining, the use of space and spatial objects for military purposes, cyber-warfare and cybercrimes, privacy and big data mining and certain uses of artificial intelligence such as autonomous weapons will undoubtedly require the *Institut's* full attention in the near future.

17. We have to go even further than that. We have to reflect on the societal concerns and the complex realities of the world around us. Therefore, in the hope of stimulating such further reflections, I will refer, in conclusion, to a famous European painter, a thirteenth-century Persian poet, and a philosophical concept cherished by many African peoples, which I consider to be relevant to Today's realities.

18. The painter is Max Ernst whose cautionary tale and warning in his painting entitled "Fireside Angel" of 1937, did not attract enough attention to avert chaos and destruction in Europe, and much of the rest of the world. The question is: will present-day warnings be heeded in certain parts of the world?

19. The poet is Saadi of Shiraz who already in the thirteenth century had beautifully expressed the interconnectedness of humanity in the following verses:

"Human beings are members of a whole
In creation of one essence and soul,
If one member is afflicted with pain,
Other members uneasy will remain,
If you have no sympathy for human pain,
The name of human you cannot retain."

20. In Africa, we have a philosophical concept, which expresses the same ideas with one word: *Ubuntu*.

21. I thank you for your attention.
