I wish to begin by thanking the co-editors of this important book, Judge Ronald Macdonald and Professor Douglas Johnston, for inviting me to write this foreword. I have known and admired them for over 20 years. In 1982, after the conclusion of the Third UN Conference on the Law of the Sea, another distinguished friend and colleague from Dalhousie University, the late Professor Elizabeth Mann Borgese, invited me to spend the summer at Halifax, Nova Scotia, to direct a workshop on ocean law and policy for young scholars and officials from developing countries. My wife and I look back on that summer with many happy memories.

One of the happy discoveries of that summer was the depth and diversity of talent of the faculties at Dalhousie. Apart from Ronald Macdonald, Douglas Johnston, Elizabeth Mann Borgese, I also met with Professor Gilbert Winham and Professor Arthur Hanson. I wish to use this opportunity to salute all of them. I wish, however, to pay a special tribute to the two co-editors who have done so much to promote the cause of international law in the world.

This is an important and timely work. Why is it timely? It is timely because the consensus of the last 60 years, that we should work for a world ruled by law, seems to be under attack. Paradoxically, the attack is not coming from the non-Western world which had, in the past, questioned the legitimacy and universality of customary international law because of its European origin. The attack is coming from some influential voices in the United States. This book will make a solid contribution to that debate.

This is an important book because it contains contributions from 33 leading scholars from all parts of the world, from every civilisation and from every point of view. It is also a very ambitious book, containing six chapters, on the foundations of the international community; uniformity and diversity in international law; geopolitics, values and clash of civilisations; the historical development of international legal institutions; confrontations with established principles of international law; and idealism and the arena. Although the book has tried to be fair and balanced by including contributions from all points of view, this does not mean that the co-editors do not have a point of view of their own. They are certainly not neutral in this debate.

I have asked them three questions. First, what is the inspiration or provocation which led the two of them to conceive of co-editing this volume of essays?
Judge Macdonald replied that they wished to contribute positively to the current debate about the shaping of the international legal order at this juncture in the history of the development of the UN. They wished to argue that international is more, not less, important than previously, and that the structural organisation of global society needed to be built through continuous contributions of international jurists from all parts of the world.

I agree with the co-editors that international law is more important today than it was previously. It is more important partly because of globalisation, partly because of technology and partly because of increased human solidarity. Globalization and technology have shrunk the world, increased the interactions among economies and peoples across borders and made us more dependent on one another. This has resulted in the growing importance of international law governing, for example, banking and financial transactions, trade, telecommunications, intellectual property rights, the environment, etc. At the same time, there is an enhanced sense of solidarity of the human family. Thus, it is no longer permissible for a government to oppress its people and take shelter behind Article 2, paragraph 7 of the UN Charter. For example, there is growing support for the concept of the duty to protect when faced with the drama of massive human suffering or deprivation. I share the editors’ vision of building an international order based on the rule of law.

Second, what erroneous views do the editors wish to dispute? Judge Macdonald replied that they wished to dispute the view advocated by some influential American officials that international law was not binding; that the global system, especially in the economic domain, should be allowed to grow like topsy; that the strengthening of international institutions was to be resisted; and that the pursuit of distributive justice was illusory.

I support the editors in disputing those propositions. The rhetoric and conduct of the United States, in the recent past, have caused grave disquiet throughout the world. Friends and admirers of the United States could not understand why the country which had, in the past, championed international law and the rule of law in the world, should turn its back against the International Criminal Court, the Kyoto Protocol, the UN Convention on the Law of the Sea, the Convention on Biological Diversity, etc. They could not believe their eyes when they read statements by US officials claiming that the US was not bound by international law because it was above the law. The United States clearly has a major credibility problem. It is in danger of squandering the goodwill which it had earned from 1945 until about the end of the Cold War.

Recently, the new Secretary of State of the United States, Dr Condoleezza Rice, spoke to the American Society of International Law, at its annual meeting. Dr Rice said:

... the time for diplomacy is now. One of the pillars of that diplomacy is our strong belief that international law is vital and a powerful force in the search for freedom. The United States has been and will continue to be the world’s strongest voice for the development and defense of international legal norms.
America is a country of laws. When we observe our treaty and other international commitments, our country – other countries are more willing to cooperate with us and we have a better chance of persuading them to live up to their own commitments. And so when we respect our international legal obligations and support an international system based on the rule of law, we do the work of making the world a better place, but also a safer and more secure place for America.

When I first read that statement, I was tempted to say, "Amen". Dr Rice has made an important policy statement. We should take the statement seriously and not dismiss it out of hand. I do not know whether we will see a different approach by the US Administration towards international law, in the President's second term. Let us wait and see whether Dr Rice's good words will be matched by deeds. As a friend of America, I wish her well.

Third, what propositions or theses do the editors wish to advance through this book? To paraphrase the editors, I think they wish to use this book to marshal the best minds from all regions of the world to address the constitutionalism of international law. They wish to promote both the rule of law and human dignity in world affairs. Their vision is a lofty one, to improve the international system for the six billion people of planet Earth.

In September this year, the UN General Assembly will hold a very important session. The session will discuss the UN's Millennium Development Goals; the Report of the High-Level Panel entitled, "Threats, Challenges and Change"; and the Secretary-General's report entitled "In Larger Freedom". The debate is, in essence, a debate about the future of the UN. An unwritten item on that agenda is the relationship between the UN and the world's only superpower. It is clear to me that the UN needs the US and the US needs the UN. An UN without the US will likely become increasingly irrelevant, like the League of Nations. There are some people in the US who believe that the US does not need the UN. They are wrong. No country, not even the US, powerful as it is, can succeed in solving all her problems without the cooperation and support of other countries. There are some in the US who dream of establishing an American Empire. Neither the American people nor the rest of the world will accept such an empire. Nor is retreating into Fortress America a viable option. It is America's destiny to lead the world into the 21st Century. The question is whether we will have the good fortune to see the emergence of another generation of American leaders, like the one which emerged after the Second World War, who will have the vision, strength and wisdom to translate American power into a new moral consensus in the world.

Tommy Koh

Ambassador-At-Large, Ministry of Foreign Affairs, Singapore
Chairman, Institute of Policy Studies
President, Third UN Conference on the Law of the Sea
Chairman, Main Committee, UNCED
Chairman, Preparatory Committee, UNCED