The Role of International Law in the World Today and Tomorrow*

The title of this essay – “The Role of International Law in the World Today and Tomorrow” – is perhaps a little too ambitious. More accurately put, it would be some reflections on the role of international law in the world by someone who, for more than three decades, practised both bilateral and multilateral diplomacy in the service of his country (Cyprus) and who, because of training, experience and inclination, is strongly convinced that international law has a very important role to play in diplomacy and international affairs.

This is the half-way point of the United Nations Decade of International Law, proclaimed by the General Assembly in 1989, the purpose of which is to enhance and solidify respect for international law, as well as to popularize it. It also happens that the year of writing of this essay coincides with the fiftieth anniversary of the founding of the United Nations when much thinking and soul-searching is going on in various forums, national and international, as to where the United Nations stands and where it is going after 50 years of its existence. This is particularly relevant since the United Nations and its Charter have, respectively, provided the forum and the basis of much of the activity in codifying and progressively developing international law during the past half century.

There have been times, particularly in the aftermath of the Second World War and, more recently, in the wake of crises such as that of the Falklands/Malvinas and the Gulf War, when high-sounding declarations have been made by world leaders proclaiming the value and relevance of international law in world affairs. It was hoped at the time, and it still should be hoped, that these declarations would be of lasting value, intended to govern relations among States in a “new world order” and to be applied universally and objectively. Yet, time and again, these hopes were dashed and these declarations

1 Resolution 44/23 of 17 November 1989.
in many instances proved to be no more than convenient slogans applied selectively and according to temporary expediencies in a “new world disorder”. In too many cases, double standards have been applied and aggressors have been able to defy with impunity the application of the relevant rules of international law and the collective will of the international community, as expressed in unanimous resolutions of the General Assembly and the Security Council of the United Nations. Bad precedents, when tolerated and condoned, tend to be repeated.

There are several themes upon which this essay is premised. These are that international law does indeed play an important role in diplomacy and international affairs; that the rules of international law must keep pace with the evolving conditions of international life; that these rules must be based on international morality and must be applied universally, not selectively; that the present world situation is conducive to enhancing the role of international law and its effectiveness; that attention should focus on the areas of law affecting present needs and that these should be defined and progressively developed; that the role of newly independent States is instrumental and has been constructive in developing such rules; that the role of the Legal Advisers to Foreign Ministries is essential and their opinion in any given situation should be sought and be given decisive weight by policy-makers before taking any policy decision on matters involving international law; and that the role of the International Law Commission and that of other expert bodies, on the universal and regional level, as well as that of major law-making conferences, are also very important.

Increased activity in the international legal field certainly provides a focal point for the Non-Aligned Movement in the changed circumstances of the world situation within the broad framework of the principles which dictated its creation. Likewise, the Commonwealth, which constitutes a principal legal system based on the common law, can play more of a role than heretofore in the international legal field.

It can be fairly stated that, by and large, States abide by their treaty obligations, despite the lack of an international legislature with binding powers or a standing international peace force or even a compulsory third-party adjudication system. Ultimately, the viability of any system of law depends upon the will of the community it seeks to regulate. The vast majority of States ordinarily observe their obligations under international law, even if motivated only by enlightened self-interest. Even when they do not observe such obligations, they tend to attempt to justify their actions or omissions by invoking legal arguments, however contrived, rather than admit that such actions or omissions violate the relevant rules of international law.

In any given situation, there may indeed be room for bona fide argument, different interpretations and lack of clarity, and certainly so – perhaps even