International Law and Diplomacy, Some Reflections

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When a well known and articulate American Ambassador finished his speech, an enthusiastic lady in the audience walked up to him to congratulate him and said: “Oh Mr. Ambassador, this speech was superfluous!” Realising her mistake, he replied tongue in cheek, “Perhaps I should publish it posthumously,” to which she immediately responded “Oh yes! The sooner the better.”

It is a great pleasure for me to be addressing a concerned and knowledgeable audience such as you. I realise that the topic I selected is very broad, but I hope it will give me the opportunity of summarising certain views – of necessity, not in depth – distilled over several decades, on a number of subjects of international law of topical importance.

While in my professional life I have been primarily a diplomat, and less so an arbitrator and a banker, I have over the years been, by conviction and training, an international lawyer, genuinely concerned with the need and desirability of the observance of the rules of international law, and have done – if I may say – my modest best to contribute to this end.

Allow me to recall, as an illustration of this position, that in my first statement in the Sixth Committee as a very green 23 year old delegate of Cyprus (Cyprus became independent in 1960 and was admitted to the United Nations in September of that year), I said that I “viewed with some apprehension… the suggestion that new States need not be bound by rules of international law which they had not helped to create and which ran counter to their interests” and stressed that the right view is that “national interests could not be allowed more weight than international legal obligations.”

Perhaps before I go any further, I should caution you on a couple of points. I was once described as a “warm” speaker and I was pleased to hear it until the awful truth dawned on me that what was meant by “warm” was “not too hot!” The other is that currently I am in this country as a visitor, or non-resident alien, and I would not want to, and I presume you would not want me to, say or do anything that would make me an undesirable alien…
is another saying – attributed to a Japanese Ambassador – that a diplomat is someone who thinks twice before saying nothing. But if I applied this here literally it would not help much for, if it were so, what business do I have to be giving the C.V. Starr Lecture today?

So I shall proceed with the subject which, let me remind you, is Some Reflections on International Law in Diplomacy.

The old fashioned definition of international law is “the body of rules and principles of action which are binding upon civilised States in their relations with each other.” Diplomacy has been described as “the application of intelligence and tact to the conduct of foreign relations.” Indeed, other definitions exist, and other epithets have been applied to diplomats and to lawyers, but this may not be the appropriate time or occasion to go into…

What role does international law play in the conduct of diplomacy? This was one of the main subjects of the 1983 Annual Meeting of The American Society of International Law (ASIL), to which I, as the Ambassador of Cyprus to the United States at the time, participated as a panellist, together with the Ambassadors of Canada and of Venezuela, who were prominent international lawyers. The discussion elicited the conclusion that international law rules were invoked and relied upon in a great variety of situations, especially in negotiations which were juridical in nature. For my part I observed that, in my experience, international law principles and rules played a substantial role in my diplomatic work, more particularly in presenting, bilaterally and in international forums, aspects of the Cyprus question, couched in legal terms. It would go beyond the time limit of this lecture to expand, but this might be pursued in the Q and A period.

In subsequent years I had the occasion, time and again, to invoke rules such as diplomatic and consular privileges and immunities and the observance of the provisions of the United Nations Headquarters Agreement of 1947, as the Deputy Dean and later the Dean of the Diplomatic Corps in Washington, and as Chairman of the lost Country Relations Committee at the United Nations in New York. Each case provided many instances where diplomacy was exercised on the basis of the applicable international law rules.

It would perhaps be relevant to remind you of the very recent publication of ASIL “International Law: 100 Ways it Shapes Our Lives,” which lists 100 tangible examples to demonstrate that “international law not only exists, but also penetrates much more deeply and broadly into every life than the people it affects may generally appreciate,” ranging from health, to telecommunications, to labour relations, etc, etc. This goes way beyond the normal range of diplomacy. ASIL’s activities in educating federal and other national judges on international law through its programme of judicial outreach, could be usefully supplemented by similar outreach exercises by foreign diplomats in national capitals, as we did in Washington, through an informal group of