Chapter 1

The International Law of Co-progressiveness: The Descriptive Observation, the Normative Position and Some Core Principles*

I. Introduction

1. I am delighted to be here to participate in the commemoration of the 60th anniversary of the debut of the Five Principles of Peaceful Co-existence (the “Five Principles”) and to ponder the development of international law under the current circumstances or perhaps for the future. I have been on an adventure to promote the international law of co-progressiveness since early 2001 when I published my paper *Towards an International Law of Co-progressiveness.* In my presentation today, I will first highlight, as a descriptive observation, what I consider to be the international law of co-progressiveness, a phrase I coined to describe the international law that is characterized by a spirit of being all-encompassing (hence “co”), preoccupied with advancements at an appropriate speed in moral and ethical terms more than in other respects and...
having human flourishing as its ultimate goal (hence “progressiveness”). I will then attempt to move from that descriptive observation to a normative position about the international law of co-progressiveness and argue that the international law of co-progressiveness not only is the law that governs international relations in the post-Cold War world but also should be the law that governs international relations generally. Finally I will tentatively attempt to identify some core tenets of this law.

II. The descriptive observation

2. After the end of the Cold War, efforts were made to characterize the nature of international society and international law. Just as there are many ways of seeing the world, there are many ways of seeing international law. In the above-mentioned paper published in 2001, I chose to focus on and highlight the spirit of international law at a particular moment or period in time, as that spirit is exhibited in the component parts of the system: its subjects, its formation, its content and its enforcement and other aspects. That is to say, the spirit of international law was my vantage point for observation and analysis. The leitmotif of international law was co-existence at the height of the Cold War, co-operation during the period of détente and is now co-progressiveness in the post-Cold War era. As there was no pre-existing word that follows perfectly from co-existence and co-operation, I had to coin the phrase “co-progressiveness” to describe what I had observed. By the “world of co-progressiveness” is meant a society that is all-encompassing (hence “co”), preoccupied with advancements at an appropriate speed in moral and ethical terms more than in other respects and having human flourishing as its ultimate goal (hence “progressiveness”). Of course, the leitmotif in each period is not the only theme audible to us: in co-existence there was co-operation; co-existence was the background note to co-operation; and co-existence and co-operation are the background notes to co-progressiveness.

3. The international law of co-existence regards primarily States as its subjects. Its formation primarily depends on the customary international law formation process. Its content concerns itself mostly with the separate existence—and the resulting co-existence—of States. Its enforcement primarily depends on the separate, unco-ordinated action by States such as countermeasures or, at best, resort to reciprocity. Peace was assured, but it was a standoffish peace, perhaps assured by or under the threat of mutual assured destruction.