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# The Future of International Law: A Human Rights Perspective – With Some Comments on the Leiden School of International Law

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**Abstract**

In the past fifty years there have been changes in relation to the nature and sources of international law. Academic lawyers have welcomed these changes, which show a movement away from strict consent as the basis of international law. States and government law advisers have adopted a more conservative approach and emphasize the importance of consent as a basis for international law. Different approaches are apparent in the practice of the Human Rights Council. The Council has focused on the Occupied Palestinian Territory, much to the annoyance of Western states. The developing world sees the Occupied Palestinian Territory in much the same way as the United Nations saw apartheid in South Africa. The International Court of Justice has responded wisely to both these phenomena. It has given cautious approval to new notions of international law, encapsulated in the doctrines of obligations *erga omnes* and *jus cogens*. On the subject of Palestine the Court has given an Advisory Opinion which should form the basis for a peaceful settlement of the conflict in the Middle East. Unfortunately the international community has failed to give effect to this opinion.

**Key words**

academics; government lawyers; human rights; Human Rights Council; new sources; Palestine

A valedictory lecture is intended to be a farewell to a particular phase of one's life. Today I bring to an end the chapter of my life at Leiden. There have been two major chapters in my life: one long and the other relatively short. The first chapter, which lasted for sixty years, was my life in South Africa. This chapter was about growing up in a strange society, about trying to promote human rights in a racist and oppressive society, and about participating in the changes that took place in the 1990s. This is a chapter that I aim to write about when I retire from a more active life! The second chapter, about which I shall speak today, started in 1998 when I was appointed professor of international law at the University of Leiden. It is a rich chapter, both in terms of changes to my personal life and in terms of professional experience. Professionally, my Leiden chapter has been dominated by three things: first, my work at the university – particularly teaching in its challenging, advanced LL M program; second, my work at the International Law Commission, where I

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served as Special Rapporteur on Diplomatic Protection from 1999 to 2006; and, third, my experience as Special Rapporteur to the Commission on Human Rights (and later the Human Rights Council) on human rights in the Occupied Palestinian Territory.

In my talk today I shall address the future of international law, with particular reference to human rights. I am fearful of the future of human rights in today's world. A whole range of factors places the international protection of human rights in danger. Today I shall talk about two of these factors which fall within my own experience. I shall approach the subject from the perspectives of the International Law Commission and the Human Rights Council. First, I shall consider the implications of the different approaches to international law taken by academic lawyers and government lawyers for the future of human rights. Second, I shall consider the implications for the future of human rights of divisions in the Human Rights Council over the Occupied Palestinian Territory. After this I shall make some remarks about the role of the International Court of Justice in resolving these differences. I shall conclude with some comments about international law at Leiden.

## 1. Academic and government international lawyers: different perspectives in relation to matters concerning human rights

It is trite that the content of international law has changed dramatically in the past fifty years, largely as a result of the adoption of multilateral treaties dealing with a wide range of subjects, including human rights, trade, the environment, international crime, and disarmament. But more dramatic, perhaps, has been the change in relation to thinking about the nature of international law, encapsulated in the notions of *jus cogens* and obligations *erga omnes*.

Traditionally, international law was seen as a system of neutral rules, equal in status,[1] to which states had consented,[2] expressly by treaty or implicitly by 'constant and uniform usage'.[3] A state retained exclusive jurisdiction over persons and events within its own territory, with the result that its treatment of its own nationals could not be seen as being of international concern. A state might protect its own nationals abroad, if it so wished, but the fate of foreign nationals abroad, although a cause for political concern, was not a matter of legal concern[4] – as illustrated by the 1966 judgment of the International Court of Justice in the *South West Africa* cases.[5] Finally, although certain conduct attracted individual criminal responsibility, the absence of a permanent international criminal court ensured impunity.

All this has changed. The sources of international law are no longer predicated on consent, and have been expanded to include General Assembly resolutions,

1. P. Weil, 'Towards Relative Normativity in International Law', (1983) 77 AJIL 413, at 423.
2. *S.S. Lotus Case (France v. Turkey)*, 1927 PCIJ (Ser. A) No. 10, at 18.
3. *Asylum Case (Colombia v. Peru)*, Judgment of 20 November 1950, [1950] ICJ Rep. 266, at 277.
4. See Weil, *supra* note 1, at 431.
5. *South West Africa Cases (Ethiopia v. South Africa; Liberia v. South Africa)*, Second Phase, Judgment of 18 July 1966, [1966] ICJ Rep. 6.

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the products of the International Law Commission, general principles (particularly in the field of human rights and humanitarian law), and 'soft law' contained in the declarations of international conferences. Some rules of international law, particularly those governing the use of force and human rights, are characterized as peremptory norms or norms of *jus cogens* and are viewed as being of a higher status than other rules. Domestic jurisdiction is no longer exclusive where human rights are concerned as a result of human rights conventions and the practice of the United Nations. A distinction is drawn between obligations that involve only the parties to a dispute and obligations that concern all states – obligations *erga omnes*. All states have an interest in the enforcement of such obligations. Consequently, states now have legal standing to protect non-nationals in international litigation – according to the International Law Commission's Draft Articles on State Responsibility[6] and a separate opinion of Judge Simma in the case of *DRC* v. *Uganda*.[7] Finally, there is now a permanent international criminal court, in addition to several ad hoc tribunals, which ensures that there is no impunity for international crimes.

We academic lawyers are understandably excited by these changes and do our best to expand and extend them. All sorts of customary and treaty norms are claimed to be *jus cogens* and to create obligations *erga omnes*; non-law becomes soft law and soft law becomes hard law.[8] As academic international lawyers outnumber international law practitioners, unlike the situation with any branch of national law, the opinions of academic lawyers become the law – at least as far as many academic lawyers are concerned. We have the gospels according to the *American Journal of International Law*, the *British Year Book of International Law*, the *Annuaire français*, and the *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht*. State practice is overlooked in our enthusiasm to create a brave new world, premised on the principles of the new international law – a world in which state sovereignty is no longer a factor, a world in which the community of personkind is governed by the Rule of Law, a world in which peace and human rights are secure and in which the energy of personkind is addressed towards resolving poverty and inequality.

I may have painted an exaggerated picture of the academic perception of international law. But I fear that it is not too far off the mark. And here I speak as an academic lawyer who had virtually no contact with government or government lawyers until after the fall of apartheid in 1994 and, more accurately, until my election to the International Law Commission in 1997. I believed in the gospel of the law journals until I was brought down to earth by the experience of the International Law Commission. Over the years the International Law Commission has changed from a body of serious academics meeting on summer vacation in Geneva to a body of law advisers, ambassadors, government ministers, and academics. The

6. Draft Articles on Responsibility of States for Internationally Wrongful Acts, Report of the International Law Commission, (2001) GAOR, 56th session, suppl. No.10 (A/56/10)29, Article 48.
7. *Case Concerning Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Uganda)*, Judgment of 19 December 2005, (2006) 45 ILM 271, at 376–7 (Judge Simma, Separate Opinion).
8. D. Shelton, 'Normative Hierarchy in International Law', (2006) 100 AJIL 291, at 322.

new international law vies with the old for acceptance in the process of codification, state practice receives more attention than *jus cogens* and *erga omnes*, and there is considerable scepticism about the attention paid to human rights in the international legal order. This was brought home to me sharply when as Special Rapporteur on diplomatic protection I attempted to portray diplomatic protection as a means of protecting human rights rather than the interests of the state. A proposal that sought to compel states to exercise diplomatic protection on behalf of a national whose human rights had been violated by the breach of a norm of *jus cogens* was unsuccessful, as were other proposals that aimed to inject human rights norms into diplomatic protection. Colleagues made it clear that human rights, *jus cogens*, and *erga omnes* were to be treated with great caution in the codification process. State interests also feature prominently in the legislative process, albeit in disguise – and invariably such interests are clothed in the language of traditional international law. For instance, I was surprised by objections raised by the United States to several of the draft articles on diplomatic protection. Despite the fact that the provisions were supported by constant and uniform United States practice, the United States argued that they did not enjoy sufficient support in state practice to constitute customary law. Amazed, I approached a friend in the State Department, who explained that the previous US practice had been shaped by the fact that until recently the United States had seen itself as a plaintiff state. Now that it had become a respondent state in international litigation it could no longer accept such rules. Hence the argument that they were unsupported by state practice.

New international law does, at least, receive a fair hearing in the International Law Commission. This is less the case in the Sixth Committee – the legal committee of the General Assembly, while in the Commission on Human Rights – now the Human Rights Council – which I have experienced since 2001 – the 'old' law prevails.

The harsh reality is that the battle for the new international law is far from won, particularly in the field of human rights. Respect for the domestic jurisdiction of states still features prominently in the practice of states and regional arrangements in Africa and Asia, despite the fact that appeals to the protection of Article 2(7) of the UN Charter are rare. Unfortunately this is too little appreciated by Europeans, who often see the world through the spectacles of their own achievements in the internationalization of human rights. Consent is still the basis of international law and soft law remains non-law. *Jus cogens* and *erga omnes* are seen as foreign maxims of no practical significance.

The refusal of most states to accept the new international law must be seen in conjunction with their refusal to take human rights seriously. Despite the plethora of human rights conventions, the enforcement of human rights protection remains weak outside Europe. States parties to human rights conventions are frequently late in their reporting. Enforcement by interstate claims under human rights conventions is unheard of outside Europe, and even here it is rare. The International Criminal Court (ICC) has not provided the deterrence that was expected: I know of no prosecution before domestic courts under the Rome Statute outside Europe, and the ICC itself is engaged in only its first prosecution. The main human rights offenders remain beyond the reach of human rights conventions or the Rome Statute and only

the political organs of the United Nations may take action against them. And now there is new support for such offenders in the form of an argument raised by South Africa in the Security Council in respect of human rights violations in Myanmar and Zimbabwe. The Security Council is illegitimate by reason of its composition which means that its powers should be strictly construed. As a consequence the notion that human rights violations may constitute a threat to international peace – a notion that ironically has its origin in UN resolutions on apartheid – is no longer to be accepted! Instead all human rights issues should be referred to the Human Rights Council, where they belong.

## 2. The Human Rights Council: different perspectives on Palestine

This brings me to the second section of my lecture: human rights and the Human Rights Council.

I was appointed as Special Rapporteur to the Commission on Human Rights on the human rights situation in the Occupied Palestinian Territory (OPT) in 2001. I now report to its successor, the Human Rights Council. I visit the region twice each year in order to prepare my reports.

The Human Rights Council, to put it mildly, has not got off to a good start. It is rightly said that it is too politicized. I share many of the criticisms of the Human Rights Council; indeed I fear it will prove to be little different from its predecessor. The main complaint is that the Council has devoted a disproportionate amount of attention to the OPT, at the expense of more pressing problems – such as Darfur and Zimbabwe.

Viewed from the perspective of the West this is true. However, viewed from the perspective of the rest of the world, particularly Asian and African states, this emphasis is justified, since the treatment of the Palestinians is, as far as the rest of the world is concerned, the most important human rights issue facing the world. I wish to examine briefly these different perspectives and their implications for human rights. In my view an understanding of this matter is crucial for an understanding of the actions of the Human Rights Council.

The rest of the world sees the OPT in much the same way as the world saw apartheid for thirty years. Like apartheid it has been before the United Nations since its inception. Like apartheid in Namibia/South West Africa, the dispute over the OPT has its roots in the League of Nations mandate system and the obligations of the United Nations towards a former mandated territory. Like apartheid, which sprung to world attention following the Sharpeville massacre of 1960, the issue of the OPT became more pressing in the 1960s following the Six Day War of 1967. Like apartheid, there is a structural dimension: not institutionalized racism but military occupation. Like apartheid, the military occupation, coupled with settlements, resembles colonialism. Like apartheid, the OPT represents the subjugation of a developing country or people by a Western-affiliated regime. Like apartheid, there are serious continuing violations of human rights and humanitarian law by the occupying power. Like apartheid, there are numerous resolutions of the United Nations condemning

actions of Israel as contrary to international law. Unlike apartheid, however, the Security Council cannot be expected to take action on the treatment of Palestinians because of the veto of the United States, and sometimes the Western powers. This explains why the rest of the world has turned to the Human Rights Council. Whereas states opposed to apartheid could appeal – sometimes successfully, sometimes unsuccessfully – to the Security Council for redress, states concerned about the human rights situation in the OPT have no alternative but to appeal to the Human Rights Council.

Today I do not wish to be drawn into the question whether Israel's occupation of the OPT is similar to apartheid – a comparison which has received new attention in the West as a result of the publication of Jimmy Carter's book *Palestine: Peace or Apartheid*. There are clearly important differences between military occupation and institutionalized race discrimination (apartheid), but at the same time there are similarities that cannot be ignored. But this is not the point. The point is that the rest of the world expects the West to respond to the Palestinian question in the same way that it responded to apartheid – with action through the United Nations, through governments, and through civil society.

The West does not see the OPT as the rest of the world sees it. This is reflected in the interventions and negative voting by the West in the Human Rights Council, by vetoes and abstentions in the Security Council and General Assembly, and by the de facto imposition of economic sanctions against the Palestinian people. There are a number of reasons for this, including the following. First, the West believes there are more pressing human rights issues. Second, the Palestinians are perceived to be on the wrong side in the war on terror. Third, there is sympathy for Israel and all its actions resulting from an unarticulated awareness and understandable remorse flowing from the suffering of Jewish people at the hands of Europeans in the Second World War.

Failure of the West to take Palestine seriously will have serious consequences for the Human Rights Council in particular and human rights in general. The Human Rights Council will become a disaster; and the rest of the world will obstruct action on issues such as Darfur. The West cannot expect the rest of the world to take issues it regards as important seriously if it persists in its present attitude to the OPT. For the rest of the world the issue of Palestine has become the litmus test for human rights. If the West fails to show concern for human rights in the OPT the rest of the world will conclude that human rights are a tool employed by the West against regimes it dislikes and not an objective and universal instrument for the measurement of the treatment of people throughout the world.

I do not wish to underestimate the difficulties faced in searching for peace between Israel and the Palestinians. The location of the boundary between the two entities, the dismantling of settlements and the wall, the status of East Jerusalem, and the right of return of Palestinian refugees remain serious obstacles to a peaceful settlement that require both understanding and compromise. These matters call for urgent attention from the West. At the same time the ongoing violation of human rights and the humanitarian disaster in the territory cannot be brushed aside as the preoccupation of the developing world. They must be addressed.

## 3. The International Court of Justice and competing perspectives

I have suggested that competing perspectives threaten the future of the international protection of human rights. First, the enthusiastic promotion of the new international law by academic activists runs the risk of causing a backlash among government lawyers (and hence states) that may harm the development of international law. Second, the failure of the West to approach the treatment of Palestinians in a fair and even-handed manner endangers both the Human Rights Council and the future of human rights. Happily, there is one institution that seems to have got it right – the International Court of Justice.

The International Court of Justice has approached the new international law in a cautious, balanced, and principled manner. While the notion of obligation *erga omnes* is largely of its own making,[9] the Court has dealt with it with great caution. In the *East Timor* case[10] the Court acknowledged that the right of self-determination has an *erga omnes* character, but refused to allow this to override the principle that the court should not rule on the lawfulness of the conduct of a state not a party to the proceedings. In *DRC* v. *Uganda*[11] the Court sidestepped the question of the standing of a state to protect non-nationals against human rights violations where the jurisdiction of the court is not in issue,[12] a course it again followed in *Bosnia* v. *Serbia*.[13] Only in the *Wall* Advisory Opinion[14] has the Court given practical effect to the concept of obligation *erga omnes*.[15]

*Jus cogens* – the concept of the peremptory or higher norm – has been approached with even greater caution. In cases such as the *Arrest Warrant*[16] the Court refrained from even mentioning the concept of *jus cogens*, despite the fact that Belgium argued that immunity could not apply where a norm of *jus cogens* had been violated. And where it did at last acknowledge the existence of peremptory norms, in *DRC* v. *Rwanda*,[17] the Court refused to allow the fact that genocide might be characterized as a norm of *jus cogens* to override the requirement of consent to jurisdiction.

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9. *Case Concerning the Barcelona Traction, Light and Power Company, Limited (Belgium v. Spain)*, Second Phase, Judgment of 5 February 1970, [1970] ICJ Rep. 3, at 32.
10. *Case Concerning East Timor (Portugal v. Australia)*, Judgment of 30 June 1995, [1995] ICJ Rep. 90, at 102.
11. *Case Concerning Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Uganda)*, Judgment of 19 December 2005, (2006) 45 ILM 271.
12. Ibid., para. 333. See, however, the Separate Opinion of Judge Simma, ibid., at 376–7.
13. *Case Concerning the Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgment of 26 February 2007, [2007] ICJ Rep., paras. 185, 368–9.
14. *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion of 9 July 2004, [2004] ICJ Rep. 136.
15. Ibid., paras. 154–60.
16. *Case Concerning the Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)*, Judgment of 14 February 2002, [2002] ICJ Rep. 1, at 23–6. For reference to other cases in which j*us cogens* might have been invoked, see my separate opinion in the *Case Concerning Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Congo v. Rwanda)*, Jurisdiction of the Court and Admissibility of the Application, Judgment of 3 February 2006, (2006) 45 ILM 562, at 609–12 (Judge ad hoc Dugard, Separate Opinion).
17. *Case Concerning Armed Activities on the Territory of the Congo (New Application: 2002) (Democratic Republic of the Conge v. Rwanda)*, Jurisdiction of the Court and Admissibility of the Application, Judgment of 3 February 2006, (2006) 45 ILM 562, paras. 64–78

Generally, it seems that the approach of the Court is to acknowledge the existence of the new international law, and in this way to prepare or educate states, but to apply it with great caution so as not to frighten states by confronting them with doctrines that they may as yet be unready to accept. This coincides broadly with the decision of the International Law Commission not to press for a convention on state responsibility immediately, in the light of likely state resistance to its provisions on *erga omnes* and *jus cogens*.

The Advisory Opinion of the International Court on the *Wall* that Israel is presently building in Palestinian Territory is significant in three notable respects. First, because it rejected the pleas of Western states that it should refuse to give an opinion. Second, because it made a number of important findings on the law – that the Wall is illegal and should be dismantled, that the Fourth Geneva Convention governs Israel's responsibilities in the OPT, that settlements are unlawful, that the regimes of both human rights and international humanitarian law apply in the OPT, and that the Palestinian people have the right to self-determination. Third, the court found that the obligations violated by Israel included certain obligations *erga omnes* with the consequence that states were under obligation not to recognize the illegal situation resulting from the construction of the Wall and to ensure that Israel complied with its obligations under international humanitarian law.

It is sad that this clear and helpful Advisory Opinion has been ignored or abandoned by the Quartet, the body designated by the Security Council to promote a peaceful settlement in the region. No statement by the Quartet mentions the Advisory Opinion at all, and scant attention is paid to the Wall or human rights. The Quartet, comprising the United States, the European Union, the United Nations, and the Russian Federation, is essentially a body of the West, led by the United States and the EU. In discarding the Court's Advisory Opinion the West has again behaved very differently from the manner in which it behaved in respect of South Africa. The Court's Advisory Opinion on the *Legal Consequences for States of the Continued Presence of South Africa in Namibia*[18] was used as an authoritative guide to states and the United Nations in their approach to South Africa's occupation of Namibia, but this has not happened in the case of the *Wall* opinion.

The West is understandably proud of its commitment to the rule of law in international affairs and disdainfully contrasts its own attitude with that of the ROW. But, again, the West's position on Israel/Palestine raises questions about its commitment to the rule of law. The resolution of legal disputes by judicial means is a major component of the rule of law, and the referral of legal disputes to the International Court of Justice has generally featured prominently in the foreign policies of the West. It is therefore strange that, despite the wide range of legal disputes presented by the Israel/Palestine conflict, the West opposed the rendering of an advisory opinion by the Court, and once an opinion was given that provided an answer to many legal questions, the West should, through the Quartet, ignore this advice.

18. *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding the Security Council Resolution 276 (1970)*, Advisory Opinion of 21 June 1971, [1971] ICJ Rep. 16.

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While an advisory opinion is not binding on states, it is surely binding on the United Nations if it approves the Opinion – as it did in General Assembly Resolution ES-10/15 of 20 July 2004, adopted by 150 votes in favour with six against and ten abstentions. This makes the position of the United Nations in the Quartet untenable. As a member of the Quartet it is surely bound to ensure that this body is guided by the Opinion. But instead it is a party to Quartet decisions that simply ignore the Opinion.

The Quartet itself is an interesting body for legal consideration. While its origins are to be found in an informal decision of the Security Council – led as usual by the permanent members – it lacks any constitutional basis. It was not created by formal resolution of the Council and is largely unaccountable to the Council. Moreover, it is a party to the imposition of economic sanctions against the Palestinian people but has not followed the procedures for economic sanctions prescribed by the UN Charter. Arguably, the United States, the EU, and the Russian Federation are free to impose economic sanctions, but the position of the United Nations is less sure, as the Charter contains prescribed procedures for the imposition of sanctions.

Questions of this kind are raised by the ROW in respect of the West's attitude towards the Israel/Palestine conflict and further explain why the ROW has chosen to use the Human Rights Council as an instrument for action. Let me repeat, I am critical of the Human Rights Council. I wish it would start addressing human rights situations in other parts of the world as well as the OPT. But I understand full well why it places the OPT at the top of its agenda and why it will continue to do so until there is progress on Palestinian statehood. And it is clear that there can be no progress without even-handed, fair pressure on both Israel and Palestine from the West.

## 4. Leiden

Ever since my days as a law student in South Africa, Leiden has had a special meaning for me. At the University of Stellenbosch, where I studied, all my law professors had studied at Leiden. We – law students in Afrikaans-language universities in South Africa – were led to believe that Leiden ranked higher than Oxford or Cambridge, or Harvard or Yale, as a place of legal learning. Later, when I had come to assess Leiden's place in the legal universe more realistically, I was confronted with the genius of Grotius and the inspiration of the Grotian tradition. So I persisted, and still do persist, in my belief that Leiden is one of the greatest universities in the world, particularly in the field of international law.

Consequently it was a great honour to be appointed as professor of international law at Leiden in 1998. I will not deny that it was a hard decision to leave South Africa, in whose life I was deeply entrenched. I twice declined Leiden's approach and it was mainly due to Hein Schermers's persistence that I accepted. I am particularly grateful to Hein for his perseverance. When I came to Leiden I found him a good colleague and an inspiring lawyer, one to whom I could always turn for advice and a friendly chat. I miss him.

At Leiden I found myself part of a fine tradition of international lawyers. I succeeded in a direct line to van Eysinga, Telders, van Asbeck, van Panhuys, and Kooijmans. But, of course, the Leiden school of international law also embraces scholars such as van Vollenhoven, Kalshoven, and Schermers. It is difficult to bring all these distinguished lawyers, with their rich intellects and diverse experiences, into one school of thought. However, I would not, I believe, be wrong in saying that they belong to the Grotian tradition – a tradition that sees international law as a system of law that serves the interests of the international community as a whole and the interests of humanity rather than the narrow interest of state sovereignty. Happily, my successor, Nico Schrijver, also shares this approach to international law.

I was professor at Leiden for eight years. I cannot pretend that all my time at Leiden was happy. The 'reorganization' of the faculty was a difficult time as it resulted in the loss of two valuable members of my staff. I was also surprised that my offer to the 'reorganization dean' to assist in fund-raising, based on my success in this area in South Africa, was turned down with the comment that 'in the Netherlands we save money rather than raise it'! Happily this is now past history. The faculty is financially secure, and under the wise leadership of Carel Stolker. We have moved into a beautiful new building, which a law faculty as distinguished as that of Leiden truly deserves.

Now let me say a few words about the Grotius Centre for International Legal Studies. This centre owes its creation to the work of many, but I think I can claim some credit for the original idea of such a centre. I had, and still have, a vision of a great international law centre situated in the international law capital of the world that would become *the* centre for international law learning in Europe. It would be a centre that accommodates all Leiden's graduate teaching, in a scholarly environment with a first-class library and adequate teaching and office space. Progress has been made with the Grotius Centre, situated in beautiful premises in the Lange Voorhout. But it still falls short of the original vision: it has no real library, and graduate teaching at Leiden – in the form of the advanced LL M degree – is endangered. There is clearly a case for vigorous fund-raising for the Grotius Centre and for serious attention to the future of the advanced LL M.

This brings me to the LL M degree. I was appointed at Leiden to promote the LL M degree and I saw this as my principal task. I transformed the degree from a degree which included non-international law topics to a pure international law degree with a specialization in international criminal law. The success of the degree can, I believe, be measured by the number of Leiden graduates who today work in the international criminal tribunals in the Hague and in intergovernmental and non-governmental organizations engaged in the practice of international law throughout the world. For me this was the happiest teaching experience of my life. I no longer had to justify the existence of international law, as I had been compelled to do in South Africa. Instead I was confronted, each year, with a diverse, bright and highly enthusiastic group of students. I hope they learned something from me. Certainly I learned much from them. Although I had a heavy teaching load, I can honestly say that I looked forward to and enjoyed every lecture. It was good to end my teaching life on such a high note.

On the subject of the LL M, I wish to thank Thomas Skouteris and Béatrice Sicouri for all the effort they have made over the years to make a success of the programme.

It is sad that the introduction of the new Batchelor/Master (BA/MA) degree at Leiden threatens the survival of the proper or advanced Leiden LL M degree. The decision to describe the MA component of the (BA/MA) as an 'LL M', instead of LL B (which would bring it in line with the four-year LL B of most Anglo-Saxon universities) or M Juris, makes it impossible for students to distinguish clearly between the undergraduate LL M degree and the post-graduate LL M degree, now named the Advanced LL M degree. Inevitably students are opting for the cheaper and less demanding LL M degree. This has serious implications for both the Grotius Centre, whose very existence is premised on the advanced LL M degree, and the reputation of international law at Leiden. Today the reputation of a university as a school of international law depends largely on the success of its post-graduate LL M – that is an LL M for students who are already qualified in law and have had several years of experience in legal practice.

A word about Ph.D. students. I have been privileged to have a number of fine Ph.D. students with whom I have enjoyed working and from whom I have learned much. I think here particularly of Zsuzsanna Deen-Racsmány and Annemarieke Vermeer-Künzli, who have probably assisted me more than I have assisted them.

I have enjoyed my years at Leiden immensely. For this I wish to thank many: Carel, Nico, Larissa, academic colleagues, administrative 'medewerkers', and, above all, several generations of students.

I also wish to thank those who have organized today's seminar and valedictory lecture: Annemarieke Vermeer-Künzli, Ingrid van Heeringen, and Esther Uiterweerd.

I said at the beginning of my lecture that my personal life had also changed since coming to Leiden. I married Ietje and extended my family to include a Dutch component in addition to the South African component.

Today my daughter, Jackie, represents the South African component. I wish to thank her for being with us today. I am proud that she is a human rights lawyer, concentrating on social and economic rights in the new South Africa.

Thanks, too, to my Dutch family for being here today and for having accepted me so completely.

Last, but certainly not least, my thanks go to Ietje, who has filled my life for the past seven years and will, I hope, continue to do so for many years to come.