

**REMARKS BY DR. DANILO TÜRK AT THE DINNER ON THE OCCASION OF
THE WORLD MEETING OF SOCIETIES FOR INTERNATIONAL LAW
Strasbourg, 27 May 2015**

Dear friends,

We are meeting under an interesting title, not often discussed: »Role and Functions of the Societies for International Law.«

The title suggests reflection about past experience, the achievements so far and about the expectations regarding the frontiers of international law in the future.

Thinking about the past one can conclude that there is much to be proud of. The societies for international law have made significant contributions to development of international law of the past decades, a development that can best be described as “exuberant”. Let us only recall the evolution of international human rights standards - an appropriate example to emphasize here in Strasbourg, the home of the Council of Europe and European Court of Human Rights. The evolution of this area of international law went far beyond the usual techniques of treaty making and international dispute settlement reserved for states. It has transformed constitutional systems. It has permeated the work of the academia, the engagement of civil society and shaped the general public on the global scale. And this entire evolution was marked by the work of international jurists and with an active engagement of societies of international law.

Furthermore, the more recent evolution in the area of international criminal jurisdiction and jurisprudence engaged our societies in a variety of new ways - as organizers of important meetings of experts, as commentators, as engaged activists and as judges in the newly created international courts and tribunals.

I chose only one example. Obviously, many other areas of evolution of international law could be quoted as well: trade law, the law of foreign investment, environmental law, international regulation of struggle against terrorism and others.

So, where do we go from here?

The existing dynamism of evolution of international law calls for intensified cooperation among national and regional societies for international law and - I would add - for an appropriate agenda of research and advocacy. We clearly need both - and at a high level of ambition. Let us recall: The purpose of societies for international law has always been to explore new frontiers of international law and to propose ways of reaching them or moving them ever further. Today we need a shared research agenda and an ambitious advocacy agenda.

Exploring and moving the frontiers of international law further requires a degree of activism and advocacy. Let me offer an inspiring example of legal thinking as a point of departure:

International law students of my generation remember a remarkable book published more than fifty years ago, in 1962, by Georg Schwarzenberger under the exciting title “The Frontiers of International Law” (London,

Stevens and Sons). In that book of now classical author, we find a realistic, power based analysis of the international system and, on page 313, the following conclusion about the future of international law:

“Considered, however, in terms of the magnitude of the challenge which the occurrence of two world wars in one generation and the invention of unprecedented means of destruction present to the world civilization, a federal framework for world society and world law may provide a commensurate answer to a problem that a world may ignore (only) at its peril.”

Let us think”..... *a federal framework for world society and world law.....*” This is indeed a highly ambitious, almost utopian idea. The irony is that this idea belongs to the intellectual world of an author known for his down to earth views, his legal positivism and, above all, his understanding of and even fascination with the reality of power politics. It is fascinating to think about the inevitability of the constructive spirit and optimism that lead the most famous authors in the field of international law.

Now, let us try to dissect the quoted idea of a *“federal framework of world society and world law”* into a set of manageable components and see how it could help building an agenda for the future cooperation among national and regional societies of international law.

In the decades following the publication of the quoted idea, the cooperation within the “world society” - if I may borrow one of Schwarzenberger’s favorite concepts - has developed to new levels. This development has had a strong impact on the most basic premise of international system, the sovereignty of states.

International relations have become a vitally important aspect of every day's existence of states - and of their populations. And sovereignty of states today is much more about their obligations and responsibilities than in any time in history.

Paradoxically this development has opened not only new horizons to states - but also new problems that call to real solutions at the global level. The processes of integration expressed at the international level have become accompanied by the processes of disintegration of societies and states. According to experts, there are around forty failed or failing states today. State failure is a major problem of the world today requiring urgent attention of the international community and effective global cooperation.

A world characterized by concurrent processes of integration and disintegration needs an ambitious agenda of further evolution of international law, an agenda worthy of an effort of all national and international societies of international law. Let me suggest four elements, by way of example rather than a coherent explanation:

First, The sovereign state remains the main and most important unit of international cooperation and of the international community. However, the nature of state sovereignty is changing. The international system is moving away from a solitary concept of sovereignty towards a more responsible, solidarity oriented model “*de souverainete solitaire vers la souverainete solidaire*” - as emphasized by Mireille Delmas- Marty, one of the prominent French jurists of our time. The concept of state sovereignty and the responsibilities it entails today require much refinement and the international law has a major role to play in this context.

Second, Sovereignty based on responsibility and solidarity requires more effective and legally developed ways of addressing the most pressing and difficult problems, such as international migrations, problem hitherto largely unaddressed - with the exception of the refugee law - by international institutions. International law experts must not ignore the totality of problems of migrations and should be able to make a contribution in the search for solutions.

Third, the principle of territorial integrity of sovereign states has been weakened as a result of a variety of threats emerging in the past decades. Some of these threats relate to the claims of self determination of peoples in multi ethnic states. Others are a result of religious strife and, yet some others, a consequence of the use of force by states. But what kind of measures at the international level can improve the protection of territorial integrity of states? The world clearly needs better arrangements for protection of ethnic and religious minorities. Questions of power sharing and federal arrangements that have traditionally belonged to national politics and constitutional law are becoming increasingly international and a legitimate subject for the future progressive development of international law. The contribution of international law specialists would be very welcome.

My fourth and final point relates to the role of state power in international politics and in the formation and operation of international law. In the system of the UN Charter, the constitutional document of modern international law, this is recognized in the design of the UN Security Council and its formidable legal powers.

Oscar Schachter, one of the prominent American authors and a leading expert on the UN law, often reminded us of the need to base a legal structure on a solid foundation of power. Norms of international law per se do not offer effectiveness and should not be used as an illusionary refuge from the problems of the real world. They vitally depend on the ways in which power is exercised. Therefore, I believe, international jurists today must add their voice to the effort for global security cooperation, for an improved understanding, ideally a “global security compact”.

I hasten to clarify: What is needed is not a binding agreement but a mature and responsible political security understanding to be achieved within the UN Security Council. Such a compact was due but did not materialize in the immediate aftermath of the cold war. The intervening years have brought additional experience and enabled additional wisdom. Every effort must be made to come closer this objective - step by step, situation by situation. And legal arrangements will be necessary to secure the durability of political solutions in each situation. Suggestions from the community of international law specialists in this direction would be timely and at least potentially effective.

This is how I see progress towards the ideal expressed by the classics of international law. I thank you for your attention, I wish you a productive discussion and a pleasant evening tonight.