



Hans Blix: Tal vid Vrije Universiteit Brussel 2003

Talare
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Hedersdoktor

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Plats
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1 Rector, Distinguished Professors, Ladies and Gentlemen!

Let me first express my own and my co-recipients sincere and respectful thanks to the Vrije Universiteit Brussel for conferring on us doctorates honoris causa.

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Those of you who might have seen me on television in the world of international affairs might feel a touch of relief in learning that I do have some academic credentials – in the field of international law. Although I failed to realize my original ambitions to become a Professor in that discipline I had rich
10 meals of learning at four different universities: Uppsala, my home town, Cambridge, where I received my Ph.D., Columbia in New York, where I did research and Stockholm, where I earned my LL.D. I was fortunate, moreover to be the pupil of two of the greatest international law Professors of the last 50
15 years: Sir Hersch Lauterpacht and Philip Jessup. Both concluded their learned careers on the bench of the International Court of Justice at the Hague. Both were great teachers and great individuals.

Having been in executive international work for over 20 years I have come to feel that a solid foundation in international law is a great asset also when you are
20 not focusing on legal analysis. You feel you are on a firm basis when you know the legal parameters.

The study of international law and the development of this law still attract me and I shall be happy to return to it when my shelf life as an international official
25 has expired.

I had a student friend who once said to Professor Lauterpacht before a seminar "You know, Professor, every morning when I wake up, I tell myself: How wonderful! Another full day of international law..." That was perhaps to lay it
30 on a bit thick, but like my student friend I do feel privileged to have had the

opportunity all my life to work on problems that were intellectually stimulating and sometimes significant to society.

35 It is a joy to be here in the world of learning and knowledge. I know my co-recipients doctors feel the same way. Your world is one without borders except the borders of our knowledge and it is precisely at these borders that you have the privilege of working in order relentlessly to move them, like an expanding universe.

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Through the internet the capital of knowledge that results from this work is now available everywhere and to all and it is accumulating at an accelerated pace. This is particularly true of the natural sciences but even in my field of law the students today have much more to learn than my generation had.

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When I was a student, some 50 years ago, the fund of international legal knowledge I needed could be found within the walls of the law library. And there were still learned professors who could write treatises covering the whole field of international law, just as Hugo Grotius wrote *De Jure Belli ac Pacis* in 50 1625, a time, I am afraid, when my Swedish ancestors devoted themselves more to war than peace on the European continent.

In my student days there was, to be sure a number of branches of international law, e.g. the law of the sea, the law of treaties, consular law and the laws of war. 55 There was, however, much less than today. For obvious reasons there was no nuclear law, no space law, no environmental law.

The expanding knowledge in physics, mathematics, biology and other natural sciences propels the technological evolution and underpins our modern life. 60 Not only do we benefit through a vastly higher material standard in the industrial countries. Longer life and better health have resulted almost everywhere.

The change in our life styles through the scientific and technological evolution 65 has been drastic.

When I was a boy there was an old woman who lived near my family's summer cottage. Her family had been fishermen and farmers. She had never been further away from her house than some fifty kilometers. About the same range of

movement as Oetschi, the famous stone age man found in the Alps a few years ago. When our neighbour was over 70 a bone from a pike got stuck in her throat and she had to be taken to the hospital at Uppsala. For the first time she was 70 kilometers away from her house. Before she left Uppsala my mother
75 asked her if there was anything special she wanted to do and she said she wanted to ride a tram! They did. This is truly a contrast to the lives many live today. Some people commute 50-70 kilometers every day.

Yet, while I realize that I belong to a relatively small group people, that should
80 perhaps be more appropriately called international nomads than a jet set, I cannot help but feeling joy and enthusiasm at this brave new world that is opening up. Not only can we reach within 24 hours to the remotest corners of the world – if, indeed, the world had any corners or any up and down. We can speak to each other from almost any point of the earth to any other point. We
85 can sit in Brussels and read the dinner menus of restaurants in Buenos Aires. The law libraries of my youth can fit into computers and all my legal writings could be condensed – I think – into a few CDs for which, I suspect, the market would be limited. The fresh minutes from the meetings of the Security Council in New York can be read minutes later in Stockholm. I think it is wonderful
90 that the world is open even though we are yet very, very far from the time when all can benefit from this.

I think it was Adlai Stevenson who talked about people who had to be pulled kicking and screaming into the 20th century. We are now moving into a 21st
95 century of vastly increased mobility of people and goods. Trade and migration of people, like knowledge, are accelerating at an unprecedented pace. These developments have many problems in their trails but also allow – should allow – great gains to be made.

100 What particularly interests me, as a lawyer and a citizen, is that these developments as well as the environmental consequences of some of our modern activities, call for more organization and legal regulation, not least at the international level.

105 Air traffic, wave lengths, emissions of CO₂, the free movement of capital, people and goods, the need for equivalence of academic degrees, what have you, require common standards and often international organizations and secretariats or other joint mechanisms. We are being pulled into the 21st

110 century – and I, for one, am not screaming, even though I have to turn to my
sons for help sometimes, when the text disappears from my computer screen.

However, it is obvious that the development of new standards and mechanisms
is not in synch with the economic and technological development. It lags
115 behind. We have a better grasp of the architecture of molecules and DNA than
of the architecture of society. At the national level the deficiencies are not as
glaring as at the international level. The national societies have had a long time
to develop and adjust social relations. They are better equipped for legislation
and decision making and executive action than the international community.

120 The European Union is, of course, a timely, though sometimes perhaps clumsy,
mechanism to handle integration that is indispensable in our region. As was
intended from the outset this integration will also rule out the use of force
within the Union. When Poland becomes a member of the EU the Oder-
125 Neisse, which was a lethal dividing line between the Common Market and the
Communist world becomes an internal European waterway among others.

The European Union, which is thus both prompted by the greater integration
of states in Europe and promoting that integration, is a peace project.

130 Indeed, I am optimistic enough – some would say enough naïve – to believe
that the gradual global integration that the modern economic and technical
evolution brings will also tend to push the relations between blocks and
continents toward peace. Let us note that there are at the beginning of this
135 millennium no significant territorial conflicts between continents, blocks and
great powers. Only the status of Taiwan is potentially a source of great power
conflict. After the collapse of the Soviet Union there are also no state driven
ideological crusades looming.

140 The market economy plus some social welfare – admittedly with great
variations – is espoused as economic system by most states. Democratic
pluralism is professed as the ideal, if not practiced, by most states and
pragmatism in foreign affairs is practiced by most. Across the river Amur, where
the Russians and Chinese used to trade bullets they now trade goods.

145 Let us note that the sharp differences that arose between great powers last
spring and still give some bitter echoes were not about territory or ideology or, I

150 think, even about oil but primarily about the way to seek assurance that Iraq did not have any weapons of mass destruction.

Human rights, which, as a student, I tended to look upon as precepts of natural law, are gradually acquiring the status of common global standards, not belonging to Christians, Muslims, Buddhist or any other ethic but to all.
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The standards are violated in the most horrendous manner in many parts of the world, but not repudiated. This is no consolation to the victims but it is, I hope, a sign of their growing standing and importance.

160 We are also seeing that although soccer matches between teams from different countries sometimes bring scandalous violence between national groups, television describing the misfortunes or miseries of people far away bring compassion and feelings of solidarity. As we watch the scenes of violence from Iraq on our screens we feel compassion with both the American soldiers and the
165 Iraqi civilians. The proximity in the ether brings feelings of human solidarity. It is on such basic solidarity that an international community must build.

Having referred to all these, in my view hopeful, factors and trends in our modern world I acknowledge that strife, civil war and regional conflict continue
170 in many parts, notably in Africa, the Middle East and the Indian and Korean peninsulas. I shall return to and focus on the world's underdevelopment in terms of providing effective security for states.

We are used to hear about the "global village", which denotes the ideas which I
175 have described that the people of the world have come so much closer to each other. The village has succeeded in setting many common standards and in handling a myriad of technical questions. However, we have to admit that the village does not yet assure its members fundamental safety against the use of force or environmental disaster.

180 Members of the village – states – still spend vast sums to remain armed and to develop new arms. And while world wars may be a horror of the past, civil wars and regional conflicts continue to rage. Furthermore, when we begin to hope that states are giving up the habit of destroying each other we find that they are
185 joining hands to destroy our common environment – the soil, the atmosphere and the seas.

What can we do about it? I now speak for myself. I do not know if my
190 honoured colleagues share my views.

The League of Nations was a weak and deficient village council. It was a first.
The United Nations is an improved modern edition but it is far from adequate
for today's world. The General Assembly has played a great role in pressing for
195 decolonization and all states in the world can now make their voices heard in it.
This universality is a long way from the League of Nations. The Assembly has
also been the forum for the joint discussion of a number of central global issues,
such as human rights, the law of the sea, the environment, the North-South
conflict, terrorism. It remains valuable as a world forum. While it is a long way
200 from fairly representing the people on the earth positions adopted by strong
majority opinions may carry great political weight. Some people sarcastically call
it a 'talk shop'. True, it is not a bicycle factory. The word 'parliament' comes
from the root 'parler' – speak. Talking is not a bad way to better understand and
finding solutions to joint problems.

205 Greater hopes and concerns attach to the Security Council on which the
members of the UN have conferred the primary responsibility for the
maintenance of international peace and security (Art. 24:1). After the end of
the Cold War it was no longer paralyzed by a veto and it did authorize a great
210 many common operations. The Gulf War against Iraq, liberating Kuwait, was
the prime example. It raised the hope that the Security Council would function
as was intended by the authors of the UN Charter.

Last spring, however, the members of the Council failed to tackle the Iraqi issue
215 jointly and armed force was used in Iraq without any authorization of the
Council. Indeed, it was used with the knowledge that a majority of the Council
was opposed to it – at that time.

I welcome, as others do, that one of the most brutal regimes the world has seen
220 was eliminated and I feel, like others, that regardless of the bitter arguments of
the past year the world must look forward, and seek to build a stable regime that
can revive Iraq economically, culturally and humanly. I hope that the
attainment of democracy, which is now claimed to have been a principal
objective of the armed action, will not prove as elusive as the weapons of mass
225 destruction, which it was emphatically asserted, existed. These views do not

signify that I think the armed action taken by a few states was consistent with the Charter of the United Nations. In my reading the resolutions on Iraq could have allowed the Council, as body, but not individual members to decide on the use of force.

It is worth noting that the grave disagreements on Iraq between great powers were not about territory or ideology. It was about the best way to tackle a possible case of proliferation of weapons of mass destruction and of defiance of binding Council resolutions. It was also and importantly about the central role of the Security Council.

As Secretary-General Kofi Annan has forthrightly recognized we need to take fresh looks at our global village council, its role and functioning. He has appointed a panel of very experienced persons to give their advice in a year's time. There should also be a lively international discussion. As demonstrations in the streets the world over show, we are all concerned.

The continued existence of regional conflicts, civil war and terrorism is exacerbated by the problem of weapons of mass destruction.

The UN Charter is not based on notions of pacifism and does not exclude the use of force but it is certainly based on the preference for the settlement of conflicts without the use of arms and force – both within and between states. The Security Council is the major mechanism available to us to tackle these problems. In what way can its functioning be improved? Let me take up a few points:

a) Some have criticized the UN and the Security Council for not intervening with force to stop genocide, notably in Rwanda. This is understandable. However, I don't think the problem is a legal one. I doubt that any legal inhibitions flowing from the UN Charter would stand in the way for the Council to authorize action by force in situations like Rwanda, the Cambodia of the Red Khmers or the most odious and oppressive regimes. Inaction is more likely to be the result of unwillingness of states to spend the life of soldiers and economic resources in situations which they do not believe affect their fundamental interests. A growing sense of solidarity between peoples nourished by greater awareness could bring a welcome change. However, I think the world would do well to make clear that the right of intervention belongs to the

Security Council, not to individual states. Any right of individual states to humanitarian other intervention we know can be misused.

b) Discussion about the Council has tended to focus on its composition. It is understandable that some economically important states and states with very large populations demand permanent representation in the Council. It is a historical accident that five states were selected in 1945 for such status.

However, rather than being examined from a viewpoint of status the question of permanent membership should, in my view, be looked at from the viewpoint of functionality. The Council must represent readily available military, political and economic power so that it can act forcefully when needed. It must also adequately represent the peoples of the world so that its decisions have universal legitimacy. Thirdly, it must be of such size that it remains a viable decision making body.

The power, which the authors of the Charter had in mind in 1945, was military power. Today, economic power may be as important. For legitimacy of decisions it is further difficult to ignore that the Council must represent a large part of the population of the world. Agreement on a new composition of the Council is one avenue. In the absence of such agreement some improvement might be attained, if there was an understanding that members have the obligation to consult other states in the regions they represent. This would have the advantage of strengthening the position especially of elected members. They would speak not only for themselves but also with the probable support of a whole group of states.

c) Discussion has further focused on the veto power. It is to be expected that those who now have this power cling to it. It was intended for them to protect their fundamental interests. A decision to use force against one of the permanent members during the Cold War would very likely have meant a serious war. Today it is improbable that any sanctions would be proposed to be directed against any one of the permanent members and that they would need the veto to protect themselves. However, if it proved impossible to eliminate the veto, it could be limited. Even today procedural matters are not subject to veto. A possible substantial limitation would be to decisions under Chapter 7, i.e. with respect to threats to the peace, breaches of the peace and acts of aggression.

305 d) On the question of the right to use force a new discussion and new day
common understanding appears needed after the Iraq affair. Article 51 of the
Charter recognizes the right to self-defense, when an armed attack occurs. If this
restrictively stated right is to be in any way extended by a right to preemptive
action the conditions need to be defined. In the Iraq affair it was clear that a
310 majority of the Council considered that neither a theory of preemption nor any
other ground justified the armed attack. The conditions, which would appear
to be relevant for any right of preemption would, in view, be two: firstly, the
presence of a threat of armed action credibly documented and, secondly, an
urgency which does not tolerate delay. Weapons of mass destruction credibly
315 shown to be used within 45 minutes constitute an imminent threat, the possible
intention to produce a nuclear weapon within 10 years would not.

e) The Security Council has rightly engaged itself in the question of the further
spread of weapons of mass destruction and declared them a threat to
320 international peace and security. After the end of the Cold War welcome
reductions have occurred in the arsenals especially of Russia and the United
States. There has also been much success in obtaining commitments to non-
proliferation and in strengthening the IAEA safeguards inspection system,
which failed before the Gulf War to identify Iraq's violation of the NPT. Latin
325 America, Africa, South Pacific and East Asia are today nuclear weapon free
zones, while the Indian peninsula, the Middle East and the Korean peninsula
remain problem areas and at least two states have violated the commitments
they undertook under the NPT.

330 Today the Security Council would need to renew its engagement in the
elimination of weapons of mass destruction. However, such elimination cannot
aim at only the non-permanent members. To carry moral weight and to be
supported by the whole UN the action must include the permanent members
and their arsenals. The disarmament process in Geneva has been interrupted at
335 a time when several promising projects were on the table. It has now been
stalled for years. It needs to be revived. The existence of terrorism does not
speak against such revival. It makes disarmament more urgent.

It is justified to focus on the risk that terrorists might seek to acquire chemical,
340 biological or nuclear weapons. When we seek to prevent this we must
remember that terrorists do not float in thin air but must be located on some
state's territory. The primary duty to prevent terrorists getting these weapons

345 must rest on the territorial sovereign. It has a duty to ensure that its territory is not used as a base for terrorism and weapons of mass destruction. Where the territorial state is too weak for this duty, the Security Council could provide assistance.

350 I want to conclude this speech and my comments on the United Nations with two points that are partly related to each other: the need for objectivity and critical thinking.

355 In the League of Nations Covenant there was no provision about the staff. The first Secretary General of the League, Sir Eric Drummond, took the firm view that the Secretariat, including the Secretary General, should be technical and impartial, like the civil service in the UK and many other countries.

360 The Charter of the UN is both more articulate and more nuanced. The Secretary-General is described as the chief administrative officer of the organization but it is foreseen that he can be entrusted with any tasks that the policy making organs want to give him. Moreover, even without such task given to him he has a right of his own to bring to the attention of the Security Council any matter, which in his opinion may threaten the maintenance of international peace and security. (Art. 99). The right to take initiatives
365 strengthens his position. He is not only a trustee but a political entity empowered by the whole organization.

370 The Secretariat staff, on the other hand, has been given no right to take political initiatives. It is explicitly prohibited from seeking or receiving "instructions" from the outside and, conversely, governments are obliged to not to seek to influence staff in the discharge of their responsibilities. (Art. 100) This is the idea of the non politicized civil service. I submit that it has served the UN system very well and must be protected.

375 In the famous polemic between the Soviet Union and Secretary-General Dag Hammarskjöld Soviet leader Chrushev said that there can be neutral nations but no neutral men. Accordingly, he suggested, the Secretariat should be organized on a troika basis, with one third of the staff coming from the East, one third from the West and one third from the non-aligned countries.
380 Whether or not the aim was to paralyze the Secretariat just as the Security Council could be paralyzed, this could have been the result. Fortunately this,

like other attempts to bend the Secretariat to the political will or interests of individual states or groups of states have failed. By and large the staff and the secretariats of the UN organizations have remained faithful to the idea of an international civil service.

The point I am dealing with is not just a technical or administrative one. It relates to the larger question of allowing governments and intergovernmental bodies to base their discussions, conclusions, decisions and actions on reports that contain all relevant data and that are unbiased. The greater the threats these bodies are dealing with the greater the need for full and reliable data, for a professional analysis and an unbiased presentation of them – whether the suspected threat is global warming or Iraq's weapons of mass destruction.

A central task of the UN inspectors in Iraq was to inspect, to collect and analyze data and to present these to the Security Council. Much mapping of weapons programs and much disarmament were attained during the long period from 1991, when inspection began. Yet, data from inspections and documentation in 2002 and 2003 did not allow the conclusion that all prohibited weapons had been eliminated. Nor did they provide evidence of a continued existence of stocks of weapons of mass destruction or of programs for their production.

Significant quantities of weapons which had once indisputably existed were unaccounted for. We reported that. However, we prudently pointed out that items "unaccounted for" might or might not exist. There was no certainty. Our reporting to the Security Council provided, as it should, the independent accurate assessment that was possible on the basis of the data available to us. In the time that was available we did not find out the real state of affairs – that there were no stocks of prohibited weapons – but nor did we draw hasty conclusions prompted by preconceived ideas or information that had not been subjected to a sufficiently critical examination. We submitted reports as an independent international civil service. The majority of states in the Security Council did not judge that these reports justified immediate armed intervention. A minority put greater trust in their own, more alarming, assessments, which have turned out in many cases to have been based on erroneous information or interpretation.

The conclusion I humbly submit to this academic audience is that the search for truth requires critical analysis. A doctoral dissertation is submitted to public

discussion, often with an opponent appointed by the Faculty. In a court of law, where similarly you want strong guarantees that a judgment will be based on true facts, witnesses are cross examined.

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We must understand that governments may be obliged often to pass judgment and take action before all data are on the table and can be assessed. If they wait for certainty they might have missed the boat. Yet, where there is a paucity of data all the more reason to examine them critically. Assessments which we have witnessed in the past year have been brutally, but I fear rightly, described as "the mother of all misjudgments."

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Källa

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