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A REMARKABLE PERIOD IN INTERNATIONAL SCHOLARSHIP: THIRTY YEARS BEFORE THE MASTHEAD

STEVEN R. SMITH*

The past thirty years have seen exciting changes in international and comparative law and in the scholarly examination of these subjects. The *International Law Journal* has been an important participant in this scholarly dialogue since its first issue in 1970. It is fitting on this anniversary of the Journal to reflect on its contributions and to imagine the challenges it will face in the next thirty years.

The *International Law Journal's* Comments, Notes, and Reviews have considered an extraordinary range of topics and problems related to international law. Indeed, a review of the scholarly pieces the Journal has published offers an excellent summary of the major themes of international law.

Law and Violence. There is, for example, the reminder that law is, in the final analysis, the alternative to violence. War is the ultimate form of violence so international law is the critical alternative to this ultimate violence. International law and the Journal have been appropriately concerned, therefore, with eliminating or containing international violence and the deadly weapons that have given violence special terror during the last part of the twentieth century.

International Trade. There has been an especially important focus on using the law to remove barriers to trade. Comparative advantage concepts in economic international trade theory are among the most powerful engines to improve the economic lives of nations. The last sixty years have been an especially productive period in removing barriers to trade, and the Journal

* Dean of California Western School of Law.

has helped lead the way in formulating and developing the legal bases for much of the improvement in trade. Despite the long-term advantages of international trade, the short-term dislocations, which can be severe, have not been resolved. This continues to produce a tension between the value of international trade and the shorter term, painful consequences of the changes it creates.

The Age of Human Rights. The Journal has been publishing during The Age of Human Rights. In this area, the twentieth century has been the best of times and the worst of times. On one hand, by the end of the century human rights had received more detailed attention in international law than had ever before been the case. On the other hand, the century produced among the world's worst human rights violations, as evidenced by the holocaust and other mass murders in the Soviet Union, Cambodia, and Bosnia.

Resources of Humankind. The Journal and international law have also been particularly concerned with developing and distributing the shared resources of humankind. Whether harvesting the resources of the sea, exploiting outer space, protecting the biodiversity of the planet, or improving international air and water quality, a central theme has been the question of how international law will structure access to valuable resources to which various peoples and nations might make claim. When the Journal started, authors assumed that the resources of outer space would be of central importance. In fact, issues of "inner space" have proved to be much more pressing.

Comparative Law. Throughout its time of publication, the Journal has made a special effort to help its readers understand the law of other countries. In the very first issue, for example, there was a focus on Mexico, a natural given the proximity of the law school to that country. In this theme issue, the Journal focuses on Latin America. It too is a natural given the likely importance of Latin America in the twenty-first century. The proximity of Latin America, the possibility of expanding the North American Free Trade Agreement, and immigration from Latin America all make this issue especially timely and important.

This issue of the Journal also emphasizes the substantial change in technology that is affecting scholarly publication. Two of the articles are being published in Spanish in the Journal.¹ The English translation of these articles will appear on the Journal's web page.² The ability to use electronic resources to supplement the printed page promises to expand the opportunities for discussion world-wide about important topics. The editors' commitment to using new technology to improve the Journal means that it

1. Gladys S. Alvarez y Elena I. Highton, *Resolucion Alternativa de Conflictos Estado Actual en el Panorama Latinoamericano*, 30 CAL. W. INT'L L.J. 409 (1999-2000); Elena I. Highton y Gladys S. Alvarez, *La Resolucion De Conflictos y la Mediacion en la Experiencia Argentina*, 30 CAL. W. INT'L L.J. 381 (1999-2000).

2. See California Western School of Law <<http://www.cwsl.edu>>.

will stay at the cutting edge of scholarship in the years ahead.

In considering what the next thirty years holds for the Journal, it is clear that technology will continue to make change and create opportunities in unpredictable ways. It is, of course, risky, even foolish, to predict the issues that are likely to be of prominence in the next three decades. Nevertheless, I am ready to rush in and predict that readers of the Journal during the next thirty years will be concerned about the following issues.

Nuclear Nonproliferation. The most pressing issues regarding the control of nuclear weapons are different than they were thirty years ago. No longer is there the immediate concern of super nuclear war. Very different problems remain, however. International law has still not resolved how we can control the spread of nuclear weapons among nations and, for that matter, among small groups of terrorists.

Criminal Sanctions in International Law. International law has been fairly unsuccessful, except in a few isolated cases, in bringing international criminals to justice. It takes more than a little optimism to expect that this may change substantially in the next thirty years, but the use of international criminal sanctions will be the subject of some considerable attention.

The Place of Sovereignty. Sovereignty is variously described by commentators as being "dead" or among the most important values for nations to protect. It is neither. The concept of sovereignty is almost surely changing, however, and developing the nature of sovereignty in the twenty-first century will be a fascinating exercise.

Intellectual Property and Information. The primary competitive advantage of the most highly developed nations is not likely to be products or physical resources, but rather information, technology, and intellectual property. In some respects these will be harder assets to protect, and the claim for making them available to poorer nations will be stronger than for physical goods. At the same time, since in large measure it is this intellectual property and information that is creating the strength and wealth for highly developed countries, it will have strong incentives to protect this advantage. The place of intangibles will be a central struggle in international law.

Trade Agreements. Post-World War II trade agreements have been characterized by multilateral, large trade understandings. These agreements now attract so much attention and raise so many issues only partially related to trade agreements themselves, that it is not clear that such large-scale agreements will continue to be politically practical. The ability to fashion trade arrangements and the circumstances will be a significant challenge.

Human Rights and Its Shared Resources. The process of defining and enforcing basic human rights through international law and of protecting and allocating common natural resources will surely be major topics of international law in the next three decades.

This list surely neglects to mention two or three of the most central and critical issues that will be central in international law in the years ahead. As

is so often the case, technology, human ingenuity (for good or evil), economic catastrophe and the like have a habit of creating unexpected agendas for lawyers and scholars interested in international law.

In his Introduction to the Journal's inaugural issue, Dean Robert K. Castetter said, "It is intended that the articles which appear in this Journal will contribute to a better understanding and formulation of the rules and guidelines needed to smooth the way for international relations between and among governments and individuals; and, will aid in fostering economically beneficial institutional business transactions."³ During its first thirty years, the Journal has met with those high intentions. It is our expectation that in the next thirty years the Journal will continue to offer thoughtful, creative solutions to the problems facing our world, and will do so making full use of the technology that becomes available. It is a promising future. To paraphrase and correct Yogi Berra, "The future is better than it used to be."

3. Robert K. Castetter, *Message from the Dean*, 1 CAL. W. INT'L L. J. (1970).