

States but other countries, private and public litigation, and legislation as to the scope of overlap and intersection.

All the individual provisions may not be perfect, I admit that, but as a starting point, I think that was not only in my life, but for the world a turning point. Thank you.

[Applause]

LUCY F. REED

Now we have the last of this group, the first of our program co-chairs to make some predictions about change, Allen Weiner.

ALLEN S. WEINER*

Thank you. We have heard tonight and will continue to hear throughout the course of the evening from some of the Society's most distinguished leaders about the way international law has changed during their careers. In contrast, my colleagues, Hari Osofsky and Russ LaMotte, and I have the different, perhaps more difficult task of trying to anticipate the ways in which international law may change in the future during our own careers.

Now, when I peer into my crystal ball, I must say that I do not envision a single clear demarcated path for international law, but rather I see a fork in the road, and I see two potential paths down which international law might follow.

On one path, international law, at least as an independent subject of study in law schools, in some ways will wither away, not because it is irrelevant, but because it is essential. In this future, international law will simply become an essential component of the general body of law that we teach and learn.

In this future, we will recognize that virtually any legal problem may have an international component, and the international dimensions will be essential elements of our legal analysis, not as subjects of distinct or separate doctrinal analysis. But, alas, I fear that this future is not assured. I think that it will only come to pass if international law is able to strengthen the institutions that create, adjudicate, and enforce international law; otherwise, I see another and a potentially dimmer path for international law.

Now, here I must confess this is out of fashion in the academy, but I must confess that I am something of a positivist. I'd like to think of myself as Tom Franck was described today, as a sophisticated positivist, but a positivist nonetheless, and in this view, I am concerned that today our ability to create international law that is accepted by the entities that it purports to regulate may not be moving as quickly as our ability to generate new claims about what international law either purports to prohibit or require.

If the pace of advancing normative international law claims outstrips the careful construction of institutions that will enforce international law and will ensure obedience, to borrow a phrase from Harold Koh, who I see is ignoring me at the table over there, then the other vision, the other path of international law as an integral element of our legal system generally may not come to pass.

Harold, don't worry. I've been ignored by other people even more important than you.

[Laughter]

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So, under this darker vision, the study of international law may come to resemble the study of the art manifestos of the earlier part of the 20th centuries, interesting to be sure but perhaps with not very much of consequence hanging in the balance.

Thank you. Enjoy your dinner.

[Applause]

DAVID D. CARON

It is approaching time for the second course of food for thought, and it is my pleasure to introduce one of our mighty elms, Charles N. Brower.

[Applause]

REMARKS BY CHARLES N. BROWER*

What has changed most in my lifetime in international law is its lawmaking process. In the year of my birth, 1935, the League of Nations reached its highest ever number of members, 58. Ten years later, the United Nations took over with fewer founding members, 51. Today, the count is 192. You can see that's a four-fold increase.

In addition, a much higher percentage of member states are, by some definition, democracies than was the case in 1935. The inevitable result is that it has become more and more difficult to negotiate and then bring into force treaties and conventions of broad, let alone universal, acceptance. Too many players at the table and multiple players in domestic constitutional processes restrict our collective ability to produce such conventions, which are the highest and surest source of international law.

Thus, strictly bilateral treaties as well as international custom and general principles of law recognized by civilized nations—how is that for a golden oldie?—necessarily have assumed a greater role as sources of international law. At the same time, nonstate actors have sprouted everywhere and with them the soft law that increasingly influences conduct *de facto*.

When one adds the fact of multiple and proliferating international courts and tribunals producing an infusion of judicial decisions as a subsidiary means for the determination of rules of law, one sees that the entire international lawmaking process has undergone and will continue to undergo deep organic changes, as we all will.

[Applause]

LUCY F. REED

And now Professor Michael Reisman, mentor to so many.

REMARKS BY W. MICHAEL REISMAN*

Thank you, Lucy. In my first encounter with international law in Jerusalem some 50 years ago, my professor advised me to read Hersch Lauterpacht's magisterial *Function of Law in*

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