

Foreword

What's Left of a Bright Future?

Christopher N.J. Roberts*

In this brief introduction, I offer a few thoughts about each of the pieces in this issue and outline the broader context that they are likely to occupy once published.

Initially, I presumed that providing a contextual backdrop for the domestic and international issues of law and policy that are contained within this issue would be a relatively straightforward task. All that would be necessary would be to speak to a basic question: “Where are we headed in the coming months and years?” This task, however, was much more challenging than I had anticipated.

We live in a moment in which so many recent and ongoing events seem to defy precedent.

Much has caught us by surprise. Brexit, democratic “backslides,” the annexation of Crimea, the proliferation of transnational terrorist groups, global migration patterns and the associated backlashes, and the rapid rise of nationalist groups are just a few indicators of the profound uncertainties that surround even our most short-term outlook.

As I write this, tensions mount between the United States and Iran following the downing of an unmanned United States surveillance aircraft and the attack of two oil tankers in the Strait of Hormuz. Advocacy lawyers have revealed that the United States government has incarcerated migrant children and babies at a border patrol station in Texas in overcrowded, squalid conditions, while denying them the basic necessities of a safe and sanitary environment.

During moments of change—and with change that defies expectations—we cannot presume that the world around us will

* Associate Professor, University of Minnesota Law School.
cjr@umn.edu.

remain exactly as it is now even during the few, short months that it takes a journal to go to press, and from press to reader. Offering the necessary context requires asking not only what our world will look like when this issue of the Minnesota Journal of International Law comes back from the press. It also requires a more fundamental question about whether the goal of offering a general—yet confident and reliable—prediction of what comes next for us is even possible.

In the coming months and years, what realities will we confront? What conversations will be had about the challenges and the opportunities we face? What will the experts be saying about our condition and what lies beyond our horizons? What ideas will researchers, journalists, and the public, be talking about? And more fundamentally, can we even answer these questions given the shifting ground beneath us?

I think we can. To answer these questions, we don't need crystal balls, wild guesses, or even measured speculation. If we know where to look, we can catch a glimpse of the rough shape of the ideas that will be circulating in the public in the months and years to come. In fact, we can turn to in-progress scholarship as an indicator of the general form and nature of the ideas that will inhabit our future conversations.

A source of hard data exists within a comprehensive publishing industry database of registered, in-print, and forthcoming book titles.¹ This database provides a glimpse of the now in-progress ideas that will likely be swirling in public conversation when this issue of the MJIL enters that domain.

An analysis of thousands of forthcoming titles within this massive literary database reveals one particularly dark, yet outsized, corner of future scholarship and thought. Unfortunately, the titles within this group suggest that much of what we love and trust is in a state of ruin and is approaching its end.

The index of forthcoming book titles shows us that we will see titles containing apocalyptic metaphors and imagery applied to cherished elements of our everyday lives. We will see, for example, published tomes that herald in their titles the *end of the middle class*, *the end of political elites*, *the end of capitalism*, and *the end of full employment*. In addition to these titles containing pronouncements of “the end of . . .,” we will also see

1. Bowker's *Books in Print* is a comprehensive bibliographic database of over 20 million in-print, out of print, and forthcoming global book titles.

numerous book titles eulogizing “the death of” everything from *nations to the truth to public integrity*, and *baseball*.

Granted, a number of the titles that declare the end of this or that very likely play with the double-meaning of “the end,” which of course also denotes a *purpose* or *objective*. Nevertheless, what we see here in the aggregate is a common trope of “declinism” or “apocalypticism.” These literary forms have a lengthy history. Indeed, this is nothing new. But it is a literary form that we should expect to see with frequency in coming months and years.²

It is important to recognize that although all of the forthcoming titles in this database are represented by a publishing house and have been assigned an ISBN, these data are predictive insofar as not every author that undertakes a book project will complete it in the near-term, or at all. In addition, these are merely *titles*. This analysis does not represent any kind of substantive evaluation of the arguments that inhere within the book; it presumes that the titles bear at least some representative qualities of the content and arguments within.

That said, in the aggregate, it is certainly possible to offer a meaningful set of reflections about general patterns, clustering, and tendencies within the list of forthcoming titles. More than seven dozen forthcoming books contain some sort of pronouncement of the ruin, the death, or the “end of” a foundational element of our social or political being. This rhetorical frame is something that we can expect in the future. It is also something that contains knowledge about how we might prepare, even during this moment of uncertainty that we now inhabit.

At the same time, future producers and consumers of ideas who wish to engage with cutting edge scholarship and thought about the current state of our nation and the world in the next few years should not let such apocalypticism obscure the reality of our current state. Indeed, there is a broader process of transformation and renewal that is actually at play.

What the index of forthcoming titles suggests—even with the aforementioned caveats and qualifications—is that many future conversations will be framed in narrow and pessimistic

2. See, e.g., THOMAS LONG, AIDS AND AMERICAN APOCALYPTICISM: THE CULTURAL SEMIOTICS OF AN EPIDEMIC (2005); Mark S. Jendrysik, *The Modern Jeremiad: Bloom, Bennett, and Bork on American Decline*, 36 J. OF POPULAR CULTURE, 361 (2002). I thank David LeBerge for bringing the modern Jeremiad trope to my attention.

terms. Yet the five contributions to this issue show us, against this backdrop of promises of cultural ruin and institutional decline, that we also will have responsible and productive scholarship that takes us to the doorstep of a new beginning.

The concept of focusing on the transformation – moving from ruins to renewal – is evident in each of the contributions to this volume. In “The Role of Women Entrepreneurs in Rebuilding a Nation: the Rwandan Model,” Woody and Stemler show how female entrepreneurs in Rwanda were able to emerge from a truly apocalyptic series of horrifying events. The beginning after the end was the seemingly improbable entrepreneurial experiment to open the first ice cream shop in Rwanda.

Indeed, change, inclusion, and political relevance often begins in the unlikeliest of places and by leveraging the most familiar of tools. Schipani and Peterson write about how the potential for social influence and political change has so often come from the artistic endeavors of recording artists in their article, “The Impact of Recording Artists and Music on Legal and Social Change.” When access to the formal levers of change is blocked, we cannot forget that music has its own power to move—particularly during moments of uncertainty and change.

In “Consociationalism: A Constitutional Solution for Ethnic Tension and Violence in South Sudan,” Dube examines how an innovative ethnic power-sharing mechanism can offer a new opportunity for a lasting and stable democratic South Sudan. The final two Notes raise questions about whether the United States might incorporate into our domestic institutions legal frameworks that clearly have been efficacious in the international context. In “The Case for Transitional Justice: Transparency, Undemocratic Institutions, and the Legitimacy Problem in American Prisons,” Hencheck raises the novel idea of using international transitional justice frameworks within the United States to address the long and deplorable train of historical abuses that prison inmates have suffered—and continue to endure—at the hand of government authority.

Finally, “Studying Abroad: Foreign Legislative Responses to Mass Shootings and Their Viability in the United States,” reveals significant cultural and institutional obstacles to ameliorating the devastating problem of mass shootings. The Note examines the legislative and policy responses to mass shootings within other nations and asks whether such measures—often passed rapidly after a mass shooting—might be viable within the United States. The answer is a

disheartening: “probably not here.”

These articles demonstrate that arguments and frameworks that emphasize the destruction of our sacred values, institutions, and cultural patterns does not in fact herald “the end of” anything. Nor should they be taken as the demise or ruin of anything we hold sacred. Instead, they are nothing more than a strident call for us to move beyond that kind of rhetoric and find the new beginnings that await.