

Foreword

The Literature of the Law in a Networked Age

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In 1992, as this journal began its publishing life, Vice President Walter Mondale wrote an insightful foreword entitled *Meeting the Challenges of the New World Order*.¹ It is hard to recall now, just eighteen years later, how promising the notion of a new world order then seemed. As Vice President Mondale observed, we had recently undergone a sea change in international relations. The Soviet Union had fragmented; Eastern Europe was liberated; the Cold War was over. Western notions of democracy, human rights, and the rule of law seemed poised to take hold around the world. Amidst these high hopes for a new world order of peaceful cooperation and global prosperity, Francis Fukuyama claimed that the triumph of liberal democracy marked “the end of history as such: that is, the end point of mankind’s ideological evolution and the universalization of Western liberal democracy as the final form of human government.”² Fukuyama did not argue that liberal democracies would be everywhere triumphant any time soon, only that in the long term liberal democracy would be the dominant form of political organization.³

As to whether Fukuyama will be proven right, it might be said, as China’s Premier Zhou Enlai reportedly said when asked whether the French Revolution was a good thing, that “it is too early to say.” But at this stage it is clear that liberal democracy’s apparent triumph in the late-twentieth century was

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1. Walter F. Mondale, *Meeting the Challenges of the New World Order*, 1 MINN. J. GLOBAL TRADE 1 (1992).

2. Francis Fukuyama, *The End of History?*, NAT’L INT., Summer 1989, at 3, 4.

3. *Id.*

merely a part of a much larger and, in Vice President Mondale's words, "deeper historical process;" an economic and cultural globalization that may be as revolutionary in its effects as was the Industrial Revolution before it.⁴

In 1992, the predicted effect of this revolution was that the world would enter a new era of global prosperity driven by technology. But to his credit, Vice President Mondale recognized the dangers inherent in globalization at a time when relatively few people did. Those dangers have materialized in ways that would have been hard to foresee then. The attacks of September 11, 2001 and the global financial meltdown of the past year stand as twin markers of the political and economic risks attendant on life in an increasingly borderless world. The sustained resistance to Western notions of liberal democracy in much of Africa, the Middle East, and Asia demonstrate that reports of democracy's triumph have been greatly exaggerated.

In this context, international law and institutions face serious new challenges. The United States, which throughout its history has vacillated between support for international law and institutions and a tendency to deem itself exempt from both, may have squandered its unipolar moment by heading in a strongly exceptionalist direction. In the recent past, the United States has often found itself on the outside looking in as other countries ratify new human rights treaties or establish new international institutions, such as the International Criminal Court. On international law issues from torture to the use of force to the status of customary law, the United States has staked out positions that have undercut the U.S. image abroad and undermined U.S. claims to international leadership. The United Nations, hampered by disagreements among the permanent members of the Security Council, has failed to translate the brief harmony that prevailed in the early 1990s into any kind of enduring institutional reforms. As a result, although the United Nations and its agencies make important contributions in many areas, on many of the most visible issues of the day, from Darfur to nuclear proliferation, the United Nations can do relatively little. In some areas, as with the new Human Rights Council, the United Nations seems to be moving in reverse.⁵

4. Mondale, *supra* note 1, at 1.

5. This is due in part to its domination by states from Africa and Asia, and the little meaningful reform from the old institution. See G.A. Res. 60/251, ¶ 7, U.N. Doc. A/RES/60/251 (Apr. 3, 2006) (detailing the regional representation of the

For those who write about international law, it is the best of times and the worst of times. It is the best of times because international law is, at least, highly visible, perhaps more so than ever before. One can teach international law from the headlines. It is routinely invoked by international actors of all stripes, if not for common ends. But in other respects, it is the worst of times for international law, as many countries, including on some occasions the United States, openly flout some of its most basic strictures.

In this context, the journal's decision to launch an online companion could not be more timely. In a world where perceptions are formed and decisions are made at fiber optic speeds, the need for thoughtful, accessible, and timely analysis of international law issues has never been more pressing. One may be able to *teach* international law from the headlines, but the traditional publication timeline for legal journals has prevented academics from *writing* from the headlines. Print journals operate on a publication schedule that can interpose many months between an article's completion and its publication. This schedule is ill-suited to the time-sensitive nature of many of international law's emerging issues. The *Minnesota Journal of International Law Online* recognizes—and attempts to remedy—that failing, providing a forum for timely analysis of emerging issues. As Vice President Mondale observed seventeen years ago, “there is plenty of work to do as we try to master the new realities of global economic interdependence.”⁶ The journal can “help show us the way in this emerging new world.”⁷

Council ensuring twenty-six of the forty-seven spots should be held by African and Asian states); see also Hadar Harris, *The Politics of Depoliticization: International Perspectives on the Human Rights Council*, HUM. RTS. BRIEF, Spring 2006, at 8 (noting the need for a cultural shift to accompany the institutional change if true reform is to be achieved).

6. Mondale, *supra* note 1, at 3.

7. *Id.*