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## Dedication to the Denver Journal of International Law and Policy at 15 - Challenges Ahead for International Law and Policy

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# Dedication to the Denver Journal of International Law and Policy at 15—Challenges Ahead for International Law and Policy

VED P. NANDA\*

## I.

As the manuscript for this issue of the *Denver Journal of International Law and Policy* is mailed to the printer, the *Journal* reaches another milestone. It is time for celebration, and equally important, it is time for reflection. We need to take stock of what the *Journal* has accomplished and assess the nature of the challenges the *Journal* must meet in the next fifteen years. By the time the *Journal's* editorial board meets to plan its 30th volume we will have stepped into the next century.

This occasion is a landmark for all of us who are involved with the *Journal* now and all who have contributed to its growth over the years. In a fitting tribute to a prized friend of the College of Law, especially its International Legal Studies Program and the *Journal*, the first issue of Volume 15 is appropriately dedicated to Leonard v.B. Sutton, former Chief Justice of the Colorado Supreme Court.

Judge Sutton is an eminent jurist and a truly global thinker. A distinguished alumnus of the University of Denver College of Law, his involvement in international affairs dates back to 1935 when he was awarded a fellowship in foreign trade in Stuttgart, Germany. His second fellowship in 1937-38 in government administration from the National Institute of Public Affairs acquainted him with Indian affairs as he worked for the U.S. Office of Indian Affairs in Arizona, New Mexico, Colorado and South Dakota.

Judge Sutton served with distinction on the Colorado Supreme Court for twelve years, from 1956 to 1968, and was its Chief Justice in 1960 and 1966. His illustrious career included serving as Chairman of the U.S. Foreign Claims Settlement Commission in 1968-69 and Chairman of the Colorado Statute Revision Commission from 1963 to 1967. He is a university lecturer and is the author of numerous scholarly publications.

His multifaceted activities in the international arena include holding offices in the Inter-American Bar Association, the Mexican Academy of International Law, International Bar Association, Institute of Judicial Administration, and Washington Foreign Law Society where he served as

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President for 1970-71. He serves on the Institute of International Education as Honorary Trustee and has served for a number of years as a lawyer for the Mexican Consulate in Denver. The University of Denver is privileged to have him provide leadership as Chairman of the Board of Governors. Currently engaged in the practice of international law, Judge Sutton also serves as an arbitrator. As a truly renaissance person, Judge Sutton is a collector of fine arts, a world traveler and explorer, a mountain climber and a noted raconteur.

Judge Sutton has played a most prominent role in educating members of the legal profession in Colorado on international law issues. The year before I came to the University of Denver College of Law in 1965, Judge Sutton was responsible for designing an international law course for the Colorado Bar. In conjunction with the Graduate School of International Studies at the University of Denver, he had persuaded the College of Law to appoint my predecessor, Stephen Gorove, in the early 1960s to teach international law and organizations. Since my joining the faculty in 1965, I have found Judge Sutton to be a gracious and generous friend of the College of Law and the international law program. He has been a frequent lecturer at the College of Law, and with his advice and assistance academic offerings at the College have grown from one course in international law to over twenty courses and seminars in international legal studies and the Program has taken a distinctive shape. Of special note is the Leonard v.B. Sutton Prize in International Law which for over a decade has been awarded by the College to a student each year for the best scholarly paper submitted on an international law topic. Two years ago he endowed the Sutton Award in International Law which provides a \$2,000 fellowship, making it possible for the college to select a student, based upon a selection from these scholarly papers, to attend the Hague Academy lectures each summer.

The International Legal Studies Program, especially the *Journal*, and I personally owe a deep debt of gratitude to a cherished friend.

## II.

Before I discuss the challenges for the *Journal of International Law and Policy* for the next few years, it seems appropriate to provide a proper context and hence, a status report on the International Legal Studies Program. For the *Journal*, established as an integral part of the Program, continues to perform that function, and as such, is most likely to reflect the Program's persona.

The objective of the faculty in establishing the Program at the College in 1971 was to offer a cluster of courses for those students who wished to concentrate their studies in the international legal studies area. The following year's College of Law Bulletin stated that the program was "designed to provide the student with an opportunity to pursue his interest in international law, international organizations, transnational busi-

ness and related areas."<sup>1</sup>

The Program continues to expand both in depth and breadth. Five years ago, marking the Tenth Anniversary of the *Journal* in 1981, I had sketched a few notable features of the International Legal Studies Program, especially its academic component.<sup>2</sup> Since the publication of Volume 10 some very significant developments affecting the College of Law and the Program have taken place. We have a new campus and attractive facilities of which we are very proud. In July 1985 we also welcomed our new Dean, Edward Dauer. It is noteworthy that Dean Dauer and all his predecessors with whom I have worked over these years—Deans Robert Yegge, who was instrumental in the establishment of the Program, and Daniel Hoffman, and acting Deans Lawrence Tiffany and William Beaney—have been more than supportive; they have significantly contributed in giving shape and direction to the Program and the *Journal*.

On the academic front,<sup>3</sup> Space Law and an International Human Rights Clinic have been added to the curriculum, and during the past year, seminars were also taught in International Energy Law and International Aviation Law. In conjunction with the Graduate School of International Studies, selected law students have also worked with George Shepherd (our colleague at the GSIS) and me on special institutes on international human rights, especially concerning problems and challenges in the third world, and on "Africa Watch," a special project on human rights in Africa coordinated by Edward Hawley, editor of *Africa Today*.

Student interest in the Program remains high. Between 15 and 20 percent of the entrants in each year's incoming class select the College

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1. UNIVERSITY OF DENVER BULLETIN, COLLEGE OF LAW, 1972-74, at 14.

2. Nanda, *Why Study International Law? A Decade of the International Legal Studies Program at the University of Denver College of Law*, 11 DEN. J. INT'L L. & POL'Y 1, 5 (1981).

3. The introductory statement on the academic part of the Program read:

The Program offers a broad range of courses in what have been traditionally described as public and private areas. To illustrate, in addition to the introductory international law course, seminars and courses are offered in comparative law, international organizations, international conflict management and resolution, international protection of human rights, international regulation of the environment, and law of the sea. Also, in addition to international economic law, and seminars in international business transactions—including policies and institutions, international capital formation and securities regulations, licensing, and international business transactions in Latin America, with special reference to Mexico—there are course offerings in immigration and nationality law, taxation of transnational enterprises, and international transportation law. Related courses are also available in admiralty and aviation law. Independent study areas in the recent past have included space law, the law of international agreements, international law and U.S. foreign policy, the law of transnational enterprises, the law of the European Community, international energy law, international resources law, and international labor law.

*Id.*

primarily because of the Program. Each year the introductory international law course is usually offered twice for day students and at least once for evening students. During 1985-86, 124 students were enrolled in the introductory course. Associate Dean for Academic Affairs, James Wallace, attempts to schedule every course and seminar offered in the Program at least once in two years to allow all students to take courses of their choice. In addition to the introductory international law course, 10-12 courses and seminars have usually been offered each year.

In addition to the Sutton award each year to a student for study at the Hague Academy, students in the Program and especially those working on the *Journal* will be eligible for scholarships in international law which the College is in the process of establishing. Another significant development is the establishment of the "International Fellows of the Program," a project just getting underway at the initiation and under the able leadership of Ralph Lake, former editor-in-chief of the *Journal*, and his alumni committee. The group is earmarking its financial support to enrich the Program by assisting the *Journal* and adding an alumni lecture series at the College.

Curriculum-related activities include a very active International Law Society, which sponsors a wide variety of activities, often co-sponsoring them with the *Journal*. The Society arranges a weekly lecture and panel series, providing students with exposure to and an opportunity to participate in discussions on timely topics related to international law and policy. More recently, the Society has initiated and coordinated the activities of several student groups on the law campus in sponsoring an international human rights awareness week each winter. The ILS has also been responsible for hosting several successful regional Jessup International Moot Court competitions, arranging an annual U.N. Day celebration, and co-sponsoring annual and regional conferences of the American Society of International Law and the Myres S. McDougal Distinguished lecture series.

Apart from providing students at the College of Law with valuable contacts with practitioners in international law and a forum for discussion of pertinent international legal and policy issues and concerns, the Society also sponsors social events including an annual international dinner in the fall and an end-of-the year picnic in the spring.

The International Law Society performs a vital function in facilitating student involvement and participation in events and issues affected by, and in turn influencing, norms and procedures of international law and international law machinery. The *Journal* and the International Legal Studies Program, as well as the College of Law as a whole, are the beneficiaries.

The College moot court team has had an enviable record in the Jessup International Moot Court competitions where twice in the last three years the team has won the regionals to advance to the national competition in Washington, D.C., and two years ago was judged the third best in

the nation.

Internships and externships in international law also continue to be part of a vital program in clinical legal education at the College of Law. In the last year in addition to internships with Denver-based corporations engaged in transnational business, such as Manville and Samsonite, international banking departments, the U.S. and Foreign Commercial Service in Denver, and law firms with international practice, students have integrated their theoretical skills and their classroom work with research and work in practical settings in Chile, Austria, England, Norway, Sweden and France.

The annual planning session of the International Legal Studies Program provides the vehicle for a periodic appraisal of the program, including the *Journal*. The faculty and associates of the Program, including leaders of the international law bar, editors of the *Journal* and officers of the International Law Society, examine the curricular offerings and related activities—the *Journal*, the Society, the Jessup Moot Court competition, awards and scholarships, internships and externships, and placements. The group suggests changes needed to improve and strengthen the program and the *Journal*. Many curriculum-related changes in the Program and changes affecting the *Journal* over the past several years can be directly attributed to the counsel and advice of this planning group.

In addition to suggestions for further strengthening the curricular offerings in the program, the following issues have repeatedly surfaced in the recent planning meetings. First, several faculty and associates have recommended that a graduate program in international and comparative law—either an LL.M. or M.C.L. program—be established. Second, it has been often suggested that we should establish special institutes in international law to assist the practicing bar. Third, the desire has been expressed for the establishment of a research and publication arm of the program, which would entail the funding of research fellowships and publication of occasional papers.

These and similar suggestions deserve serious consideration. A few of the suggested projects have already been periodically undertaken, such as co-sponsoring, with the Continuing Legal Education, institutes for practitioners, and undertaking publication of hardcover books. However, no matter how essential or desirable an addition to the program is perceived to be by those closely involved in the program, one primary element of implementation obviously is the adequacy of resources. At this time we do not possess the necessary prerequisites—full time faculty and adequate library resources—to implement these suggestions, especially undertaking immediate steps toward the establishment of a graduate degree program. I do, however, believe that since the need is there, we can find sufficient resources to make a modest beginning on many of these fronts in the near future.

## III.

Throughout the years of its publication, the *Journal*, with the advice of the planning group of the Program as well as its own advisory board, has attempted to meet the challenge of providing its community of readers with a high quality publication by keeping several goals in close consideration. The goals which the *Journal* has undertaken to pursue are also ones which we believe will serve us well in the years to come. These goals do not readily lend themselves to a hierarchical order of values, rather they are intended to serve a variety of complementary interests.

The *Journal* inaugurated its first issue with a dedication to Professor Myres S. McDougal. It seems especially appropriate to recall three tributes to Professor McDougal, one by then-Dean, Robert Yegge, and the others written by the founding editor-in-chief of the *Journal*, Jonathon C.S. Cox, and myself. Dean Yegge wrote,

With his lifelong devotion to legal teaching and scholarship, his untiring efforts in promoting human dignity, and his impact upon international legal thought, "Mac" has rightly earned a warm and singularly unique place among his colleagues—scholars, teachers, practitioners, jurists—everywhere. Kudos, respect and gratitude go to him on his sixty-fifth birthday, through these pages.<sup>4</sup>

Cox's comments, "From a student's point of view," were:

We searched for a way to distinguish both ourselves and this publication from all others. It was only when we settled upon the idea of dedicating this journal to a man of such awesome intellect and productivity that everything jelled. From that moment our direction and purpose were fixed, and I can honestly say that the rest has been both easy and rewarding. Our hope is to try to do his contribution to International Law justice with this contribution to him and his field.<sup>5</sup>

In my tribute to Professor McDougal, I had said:

The task of clarifying the problems of world public order and providing viable alternatives is a continuing one. Yet, within this ongoing process Professor McDougal has had a distinct and unique impact, challenging, directing and shaping international legal thought.<sup>6</sup>

The dedication to Professor McDougal is significant in a number of ways. The most important of which being the *Journal's* commitment to publishing pieces which further the extremely important linkage between international law and international policy. To advance this goal, we continue to publish a number of articles which address international policy concerns as well as jurisprudential issues. In an era of increased specialization within the study of international law, and where the number of specialized international law journals is on the increase, we are proud to

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4. Yegge, *Foreword*, 1 DEN. J. INT'L L. & POL'Y ii (1971).

5. Cox, *From the Editors*, 1 DEN. J. INT'L L. & POL'Y v (1971).

6. Nanda, *Myres S. McDougal*, 1 DEN. J. INT'L L. & POL'Y 8 (1971).

be able to publish articles which address the law-policy nexus in the international field. We are also honored that as a continuing tribute to Myres S. McDougal (whose advice as a member of the *Journal's* advisory board we prize highly), the *Journal* publishes addresses from the Myres S. McDougal Distinguished Lecture in International Law and Policy, which was established in 1977 as an annual lecture series at the College of Law.<sup>7</sup>

Another value which figures significantly in the *Journal's* publication goals is that of meeting the needs of practitioners of international law. The *Journal* attempts to provide them with timely and useful analyses of selected concepts and developments. Practitioners play a special role in the further development of international law, and the *Journal* is keen to respond to their needs by publishing articles of special interest to them.

Similarly, of special concern to the *Journal* is our desire to contribute to the shaping of international law for the future. The concerns articulated above figure uniquely in the *Journal's* effort to seek manuscripts for publication from those who are constantly pushing the horizons of international law. We will continue to publish articles which concern the "cutting edge" of current international legal developments. Our aim is to keep the *Journal* readership abreast of the diversity of thought and approach to international law scholarship in general, as well as to particular international legal phenomena.

The *Journal* has attempted to accomplish its goals in several ways: through the co-sponsorship of an annual regional conference of the American Society of International Law and the co-sponsorship of the Myres S. McDougal Distinguished Lectureship series, and the publication of symposium issues on such topics as human rights, global climatic change, international terrorism, transnational business, and an upcoming issue on refugees; faculty comments; and the recently introduced section on critical essays.

To illustrate, the *Journal* co-sponsored this year's international law conference on "Refugees: Close the Door?—Response to Global Challenge," which was in part funded by the Colorado Endowment for the Humanities and attracted over 275 registrants from throughout the region. Selected papers from the conference will be published in a symposium issue and eventually in a book.

Speakers included a former colleague at the College of Law and currently the Governor of Colorado, Richard Lamm; several leading experts from academia, representing many disciplines and discussing various aspects of the refugee problem from the vantage point of their respective disciplines, including Richard Falk who also delivered the Myres S. McDougal Distinguished Lecture; a historian of note, George Barany at the

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7. The last two lectures published were Rubin, *International Trade Realities: Are There Rules of the Game?*, 14 DEN. J. INT'L L. & POL'Y 147 (1986); and Franck, *U.S. Foreign Policy and the U.N.*, 14 DEN. J. INT'L L. & POL'Y 159 (1986).



University of Denver; two eminent theologians, Charles Milligan from the Iliff School of Theology and Edward Hawley, Editor of *Africa Today*; several distinguished political scientists and international studies scholars, including James Mittleman, Dean of the Graduate School of International Studies at the University of Denver, Peter Koehn from the University of Montana, George Shepherd at the GSIS, and Angela Delli-Sante from the University of New Mexico; and those from the law school world, including Edward Dauer, Dean, University of Denver College of Law, William M. Beaney, Paul Dempsey and I, also at the College of Law and Daniel Magraw at the University of Colorado School of Law.

Speakers also included those actively involved in facing the challenges of providing asylum and sanctuary and helping to meet both the short term and long term needs of refugees—Jim Haynes from the Office of the United Nations High Commissioner of Refugees; Michael Anderson from the Department of State and William Joyce from the Department of Justice; Steven Cooper, Esq., from Minneapolis and Michael Altman, a member of the Arizona State University law faculty, who represented the sanctuary defendants in the Phoenix trial; attorneys active in assisting refugees—Karen Parker from San Francisco, Lisa Brodyaga of the Refugio del Rio Grande in Texas, and Carol Hildebrand, Shelley Dodge, Ann Schmitt, and Cheryl Martinez from this region; Judge Jesse Sellers, Immigration Judge, Denver; Ed LaPedis, Office of Refugee Settlement; Laurie Bagan of the Colorado Refugee Service; Roberta Kern from the Arvada Mennonite Church; Peter Van Arsdale of the Refugee Mental Health group; Richard Castro, Denver Community Services and Human Relations; Norman Rice, Seattle City Councilman and Ruth Purkapple from the Colorado Council on International Organizations.

Similarly, the *Journal* published in a recent issue<sup>8</sup> a report of the work product of the International Human Rights Clinic at the College, which provided selected students an opportunity to sharpen their skills. The work included: an amicus brief, in conjunction with the Urban Morgan Institute for Human Rights at the University of Cincinnati College of Law, to the Inter-American Court of Human Rights; preparation of two studies for the International Human Rights Law Group; two projects for the Lawyers' Committee for Civil Rights Under Law; and a project to assist the National Lawyers Committee for Soviet Jewry for filing with the United Nations Commission on Human Rights a petition pursuant to ECOSOC Resolution 1503. Other projects included briefs against deportation prepared on behalf of Haitian and Salvadoran refugees, and a brief written for a prominent Denver defense lawyer representing anti-nuclear demonstrators in Fort Collins, Colorado.

Projects for the current International Human Rights Clinic, which will be reported in a future issue, include assisting those challenging the

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8. See Nanda & Lipmann, *A Report on the University of Denver's Institute of Human Rights*, 13 DEN. J. INT'L L. & POL'Y 301 (1984).

military court system in Chile, and seeking freedom from detention for physicians and attorneys in Chile who have been charged with violations of the Arms Control Law in that country; examining the allegations of state terrorism against the government of Sri Lanka; challenging the ongoing efforts to relocate Navajo Indians on Big Mountain; and analyzing the recent House Bill under which economic sanctions would be imposed on South Africa, with the focus on possible means of implementation and the probable impact of the Bill.

Finally, the *Journal* is committed to the publication of high-quality student written pieces. These student-written pieces take the form of notes, comments, and developments, and beginning with 15:2, the winning paper of the Leonard v.B. Sutton Award.

During the next few years the challenges for international law will be formidable. To illustrate I will mention only a handful of timely questions: how can principled and effective constraints on the use of force in the international arena be ensured? How can the mad race to build and pile up deadly arsenals of both nuclear and conventional weapons be halted? How can international economic law contribute toward an appraisal and modification of the existing economic and international structures and also help in the fashioning of new ones so as to allow equitable access and participation in the international arena to all states and all human beings? How can the prevalent state structure be made responsive to meet the needs of individuals and groups within each state, as well as to the existing and emerging regional and global challenges, such as transboundary pollution, and deep seabed and space exploration and exploitation? What kind of functional relationships between and among states, international and regional intergovernmental organizations, multinational enterprises and nongovernmental organizations should be maintained and how should they be structured? How should the role of the individual be further enhanced in the international arena? How can international human rights law be made an effective instrument for the protection of human rights?

In looking forward to its next fifteen years of publication, the *Journal* rededicates itself to addressing these questions which are critical for human survival and in making a contribution toward the realization of Professor McDougal's vision of establishing a world order based on human dignity.

