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# Introduction: Politics, Values and Functions: International Law in the 21st Century

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# Politics, Values and Functions: International Law in the 21st Century

## INTRODUCTION

In the summer of 1989, some 200 students of international law from around the world sat in the spacious lecture room of the Hague Academy and listened with rapt attention to Professor Louis Henkin of Columbia University School of Law. His blend of pragmatism and idealism captured their interests and imagination. For Henkin, international law exists—governments use it. Certainly they can use it more frequently, and certainly the system can be improved. Those perspectives are part of his pragmatism. It is through international law, however, that we have been able to do so much to enhance the dignity of human beings, to promote peace, to share resources fairly, and to live together under the rule of law. We can and should look to international law for these purposes. That perspective reflects his idealism.

The title of his lectures, and the book containing them, summarizes what Henkin conveyed those summer days at the Peace Palace, *International Law: Politics, Values and Functions*. As he explains in the introduction to the lectures, “Politics” in the title refers to “law as politics” and international law as the law of the international political system. “Values” refers to the purposes for which the international legal system exists, and “Functions” to international law’s ability to address the practical needs of international life. International law is not the law of a utopia. It is the law of a real social system. To understand international law, we need to understand the system of international politics in which it functions. International law does and should reflect and promote values—the highest moral beliefs of international society. Finally, much of international law is also practical in content and application. Such functional international law promotes orderly and peaceful international relations.

The contributors to this topical issue examine further the themes that Henkin identified almost ten years ago. They examine international law’s politics, values, and functions at present and into the 21st century. We have chosen to pursue these themes through the topics most prominent in Henkin’s own work: foreign affairs and the constitution, theory of the international legal system, law of the sea, human rights, and regulation of the use of force. These are the very topics that gave rise to the concepts he emphasized in The Hague. The contributors have written in the context of the future of international law. The result is a

collection that predicts much about the near future of important aspects of international law, as well as its structural elements.

It is our belief that international law scholars can do more to prepare for the challenges of the next century. It is time to think about the future shape of international society and how international law can best serve that society. Henkin's three themes and the areas in which he has concentrated during his career serve as useful vehicles for exploring these issues. We believe that Louis Henkin would prefer no other honor than for his ideas to be used this way, especially if it inspires efforts to enhance law's ability to improve the human condition. That is the aim of the editors and contributors. We hope by doing so to honor Louis Henkin in his 80th year.

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