

IN MEMORIAM

BURNS H. WESTON (1933–2015)

By Henry J. Richardson and Adrien K. Wing†*

Burns Weston, a member of the Board of Editors of this *Journal* from 1974 to 1999, and an Honorary Editor thereafter, died unexpectedly on October 28, 2015, late in his eighty-first year, in Iowa City, Iowa. All who knew him, as friend, colleague, student, or collaborator, marveled at his seemingly boundless energy and determination, his focused devotion to whatever project involved him, his deep intellect and flowing humor, his endless imagination for creating a better world, his talent at institution building, and his ongoing curiosity propelling a dedication to achieving progress in the human condition. His professional life featured an inexhaustible determination to use international law to protect human dignity around the world. His interests, expertise, and scholarship in international claims law,¹ human rights law,² environmental

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¹ See, e.g., Frank G. Dawson & Burns H. Weston, "Prompt, Adequate and Effective: A Universal Standard of Compensation?", 30 FORDHAM L. REV. 727 (1962); Frank G. Dawson & Burns H. Weston, *Banco Nacional de Cuba v. Sabbatino: New Wine in Old Bottles*, 31 U. CHI. L. REV. 63 (1963); Burns H. Weston, *Community Regulation of Foreign-Wealth Deprivations: A Tentative Framework for Inquiry*, in ESSAYS ON EXPROPRIATIONS 117 (Richard S. Miller & Roland J. Stanger eds., 1967); Burns H. Weston, *International Law and the Deprivation of Foreign Wealth: A Framework for Future Inquiry* (pt. 1), 54 VA. L. REV. 1069 (1968); Burns H. Weston, *International Law and the Deprivation of Foreign Wealth: A Framework for Future Inquiry* (pt. 2), 54 VA. L. REV. 1265 (1968); Burns H. Weston, *Postwar French Foreign Claims Practice: Adjudication by National Commissions—An Introductory Note*, 43 IND. L.J. 833 (1986); Burns H. Weston, *Postwar French Foreign Claims Practice: Adjudication by National Commissions—Czech Claims*, 10 VA. J. INT'L L. 223 (1970); BURNS H. WESTON, INTERNATIONAL CLAIMS: POSTWAR FRENCH PRACTICE (1971); Burns H. Weston, "Constructive Takings" Under International Law: A Modest Foray into the Problem of "Creeping Expropriation," 16 VA. J. INT'L L. 103 (1975); BURNS H. WESTON, INTERNATIONAL CLAIMS: THEIR SETTLEMENT BY LUMP SUM AGREEMENTS (1975); BURNS H. WESTON, RICHARD B. LILlich & DAVID J. BEDERMAN, INTERNATIONAL CLAIMS: THEIR SETTLEMENT BY LUMP SUM AGREEMENTS, 1975–1995 (1999); Burns H. Weston, *The Charter of Economic Rights and Duties of States and the Deprivation of Foreign-Owned Wealth*, 75 AJIL 437 (1981); INTERNATIONAL CLAIMS: CONTEMPORARY EUROPEAN PRACTICE (Richard B. Lillich & Burns H. Weston eds., 1982); Burns H. Weston, *The New International Economic Order and the Deprivation of Foreign Proprietary Wealth: Reflections Upon the Contemporary International Law Debate*, in INTERNATIONAL LAW OF STATE RESPONSIBILITY FOR INJURIES TO ALIENS 89 (Richard B. Lillich ed., 1983); Richard B. Lillich & Burns H. Weston, *Lump Sum Agreements: Their Continuing Contribution to the Law of International Claims*, 82 AJIL 69 (1988).

² See, e.g., Burns H. Weston, Robin Ann Lukes & Kelly M. Hnatt, *Regional Human Rights Regimes: A Comparison and Appraisal*, 20 VAND. J. TRANSNAT'L L. 585 (1987); Burns H. Weston, *Human Rights*, in 20 ENCYCLOPAEDIA BRITANNICA 714 (15th ed. 1988); Stephen P. Marks & Burns H. Weston, *International Human Rights at Fifty: A Foreword*, 8 TRANSNAT'L L. & CONTEMP. PROBS. 113 (1998); Burns H. Weston, *The Substantive Rights and United States Law*, in U.S. RATIFICATION OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS 168 (Hurst Hannum & Dana D. Fischer eds., 1993); THE FUTURE OF INTERNATIONAL HUMAN RIGHTS (Burns H. Weston & Stephen P. Marks eds., 1999); CHILD LABOR AND HUMAN RIGHTS: MAKING CHILDREN MATTER (Burns H. Weston ed., 2005); Burns H. Weston, *Human Rights and Nation-Building in Cross-Cultural Settings*, 60

law,³ nuclear disarmament,⁴ and global governance⁵ in particular were surpassing in their consistent excellence, continuous push against familiar doctrinal parameters, and his rich profusion of published scholarship.⁶ He was a global leader in international human rights law, and

ME. L. REV. 317 (2008); Burns H. Weston, *Child Labor in Human Rights Law and Policy Perspective*, in HUMAN RIGHTS IN LABOR AND EMPLOYMENT RELATIONS: INTERNATIONAL AND DOMESTIC PERSPECTIVES 73 (James A. Gross & Lance Compa eds., 2009); Anna Grear & Burns H. Weston, *The Betrayal of Human Rights and the Urgency of Universal Corporate Accountability: Reflections on a Post-Kiobel Lawscape*, 15 HUM. RTS. L. REV. 21 (2015); HUMAN RIGHTS IN THE WORLD COMMUNITY: ISSUES AND ACTION (Burns H. Weston & Anna Grear eds., 4th ed. 2016).

³ See, e.g., Burns H. Weston, *Contending with a Planet in Peril and Change: An Optimal Educational Response*, 5 ALTERNATIVES 59 (1979); Burns H. Weston, *Climate Change and Intergenerational Justice: Foundational Reflections*, 9 VT. J. ENVTL. L. 375 (2008); Burns H. Weston & Tracy Bach, *Recalibrating the Law of Humans with the Laws of Nature: Climate Change, Human Rights, and Intergenerational Justice* (a policy paper of the Climate Legacy Initiative, a joint project of the Environmental Law Center of Vermont Law School and The University of Iowa Center for Human Rights, April 2009); Burns H. Weston, *The Theoretical Foundations of Intergenerational Ecological Justice: An Overview*, 34 HUM. RTS. Q. 251 (2012); David Bollier & Burns H. Weston, *Green Governance: Ecological Survival, Human Rights and the Law of the Commons*, in THE WEALTH OF THE COMMONS: A WORLD BEYOND MARKET & STATE 343 (David Bollier & Silke Helfrich eds., 2012); JONATHAN C. CARLSON, SIR GEOFFREY PALMER & BURNS H. WESTON, INTERNATIONAL ENVIRONMENTAL LAW AND WORLD ORDER: A PROBLEM-ORIENTED COURSEBOOK (3d ed., 2012) (accompanied by a teacher's manual and documentary supplement); David Bollier & Burns H. Weston, *Greenkeeping Governance: Toward A Law of the Ecological Commons*, in KOSMOS: GLOBAL CITIZENS CREATING THE NEW CIVILIZATION 63 (Spring–Summer 2012); BURNS H. WESTON & DAVID BOLLIER, GREEN GOVERNANCE: ECOLOGICAL SURVIVAL, HUMAN RIGHTS, AND THE LAW OF THE COMMONS (2014) [hereinafter GREEN GOVERNANCE]; Burns H. Weston & David Bollier, *Toward a Recalibrated Human Right to a Clean and Healthy Environment: Making the Conceptual Transition*, 2 J. HUM. RTS. & ENV'T 116 (2013); David Bollier & Burns Weston, *Green Governance: Advancing Ecological Stewardship Via the Commons and Human Rights*, in THE WORLDWATCH INSTITUTE STATE OF THE WORLD 2013: GOVERNING FOR SUSTAINABILITY 91 (Tom Prugh & David Renner eds., 2014).

⁴ See, e.g., Burns H. Weston, *The Role of Lawyers in Preventing Nuclear War: Remarks*, 76 ASIL PROC. 338 (1976); Burns H. Weston, *Peace & World Order Education: An Optimal Design*, in PEACE AND WORLD ORDER STUDIES: A CURRICULUM GUIDE 55 (Transnational Academic Program Institute for World Order 1981); BURNS H. WESTON, PEACE AND WORLD ORDER STUDIES: A CURRICULUM GUIDE (1978); Burns H. Weston, *Nuclear Weapons and International Law: Prolegomenon to General Illegality*, 4 N.Y.L. SCH. J. INT'L & COMP. L. 227 (1983); Burns H. Weston, *Answering the Nuclear Question: The Modern Lawyer's Role*, 9 BROOK. J. INT'L L. 201 (1983); Burns H. Weston, *Nuclear Weapons Versus International Law: A Contextual Reassessment*, 28 MCGILL L.J. 542 (1983); TOWARD NUCLEAR DISARMAMENT AND GLOBAL SECURITY: A SEARCH FOR ALTERNATIVES (Burns H. Weston ed., 1984); Burns H. Weston, *Who Are the Soviets? The Importance of Accurate Perception in the Age of Trident*, in SOVIET-AMERICAN RELATIONS 47 (Daniel N. Nelson & Roger B. Anderson eds., 1988); Burns H. Weston, *Lawyers and the Search for Alternatives to Nuclear Deterrence*, 54 U. CIN. L. REV. 451 (1985); Burns H. Weston, *Are There Alternatives to the Nuclear Threat System?*, 2 J. WORLD PEACE 16 (1985); ALTERNATIVE SECURITY: LIVING WITHOUT NUCLEAR DETERRENCE (Burns H. Weston ed., 1990); Burns H. Weston, *Law and Alternative Security: Toward a Nuclear Weapons-Free World*, 75 IOWA L. REV. 1077 (1990); Burns H. Weston, *Toward Post-Cold War Global Security: A Legal Perspective* (Nuclear Age Peace Foundation, Waging Peace Series No. 32, 1992); Burns H. Weston, *A Post-Soviet Alternative to Nuclear Deterrence: A Legal Perspective*, 22 VICTORIA U. WELLINGTON L. REV. 199 (1992); Burns H. Weston, *In Quest of World Peace: Law and Alternative Security*, in THE CONSTITUTIONAL FOUNDATIONS OF WORLD PEACE 349 (Richard A. Falk, Robert C. Johansen & Samuel S. Kim eds., 1993); Burns H. Weston, *Nonproliferation and the Duties of Nuclear-Weapon States: Taking the NPT Seriously*, in NONPROLIFERATION 28 (Dieter Deiseroth & Stig Gustafsson eds., 1993); Burns H. Weston, *Nuclear Weapons and the World Court: Ambiguity's Consensus*, 7 TRANSNAT'L L. & CONTEMP. PROBS. 371 (1997).

⁵ See, e.g., Saul H. Mendlovitz & Burns H. Weston, *The United Nations at Fifty: Toward Humane Global Governance*, in PREFERRED FUTURES FOR THE UNITED NATIONS 3 (Saul H. Mendlovitz & Burns H. Weston eds. 1995); GREEN GOVERNANCE, *supra* note 3.

⁶ He wrote significantly and often comprehensively on public international law, international environmental law, climate change and global governance, international human rights, human dignity, child labor, international claims law, foreign wealth deprivations, post-Cold War global security, nuclear disarmament, nuclear nonproliferation, peace studies, global hunger, the global commons, the United Nations, preferred futures and global governance, Palestinian/Israeli issues under international law, national and international approaches to human rights

believed in connecting his scholarship to personal involvement in situations of needed advocacy against human rights deprivations, sometimes at personal risk.

He began imbibing his international orientation at an early age after his birth in 1933, from: his French mother Simone Humphrey Weston (who gave him his first language); his father Stephen Burns Weston—a State Department official who traveled extensively as head of the Anglo-American Caribbean Commission during World War II,⁷ including early transatlantic ocean liner trips to France; and a boyhood international stamp collection. A serious early pianist, he contemplated a concert piano career.⁸ As his sister Professor Monique Weston said, “Your intensity, persistence, and capacity to concentrate as a preteen and teenager prefigured the same traits which you displayed in your prodigious professional writing and in your personal life.”⁹

Growing up in Cleveland, he collided with race and its rights implications when he and his parents successfully opposed the sponsors’ blackballing of an African American young woman into his music club. He finished his B.A. at the Music Conservatory at Oberlin College in 1956. Weston then enlisted in the military and was sent to Garmisch, Germany as a Chaplain’s Assistant. He studied a year at the University of Edinburgh, Scotland, and earned his LL.B. at Yale Law School in 1961. He recalled that his first research paper for his LL.B. degree was on the prospects for humane world government. After graduation, he practiced in the leading New York law firm of Paul, Weiss, Rifkind, Wharton & Garrison through 1964. He then returned to Yale Law as a Sterling Fellow and a Rockefeller Foundation Fellow to immerse in Law, Science, and Policy (LSP) jurisprudence under Myres McDougal and Harold Lasswell. He joined the Iowa faculty in 1966, and would return to take his J.S.D. at Yale in 1970.¹⁰

I. INFLUENCES

In a Living History Interview, Weston revealed that since childhood he had been interested in macrohistory, and had thought of himself as having some connection to other people in the world.¹¹ In that same interview, Weston also revealed the formative impact he felt around his addressing the racial discrimination against an African American woman music student, noted above, as it intersected with his studies for a music career at Oberlin College, and his being urged and supported by his parents to not only not resign from the offending organization, but to work and fight (successfully) to correct the wrong.¹² Thereafter, he got involved with the campus chapter of the NAACP in its fight against racial discrimination. These events arose in

implementation, conflict resolution, international education and world order, and American constitutional law and foreign policy under the rule of law.

⁷ See Wolfgang Saxon, *S. Burns Weston, 90, Cleveland Lawyer and Federal Official*, N.Y. TIMES, Oct. 5, 1994, at <http://www.nytimes.com/1994/10/05/obituaries/s-burns-weston-90-cleveland-lawyer-and-federal-official.html>.

⁸ See *Burns Weston Obituary*, N.Y. TIMES, Nov. 12, 2015, at <http://www.legacy.com/obituaries/nytimes/obituary.aspx?pid=176450676>.

⁹ Monique Weston, *Remarks*, in BURNS H. WESTON, REMEMBRANCE AND CELEBRATION OF A LIFE 181 (Timothy Weston & Rebecca Weston eds., 2016) [hereinafter REMEMBRANCE].

¹⁰ See Burns H. Weston personal website at <http://www.burnsweston.com> (last visited July. 25, 2016).

¹¹ See Burns H. Weston, *Living History Interview with Bessie Dutton Murray Distinguished Professor of Law Emeritus and Director of the University of Iowa Center for Human Rights*, 11 TRANSNAT’L L. & CONTEMP. PROBS. 431, 438 (2001) [hereinafter *Living History Interview*].

¹² *Id.* at 456.

the early years of the American civil rights movement at a college long devoted institutionally and scholastically to protecting American minority rights, while also overlapping Weston's early exposure to international travel to France. They forced rights and discrimination issues into Weston's early international influences and his early commitment to instruction for a music career. They can thus be seen as formative elements to the profound measure that his career was subsequently committed to human rights and human dignity scholarship, program-building, teaching, and community involvement, even as he was intensely involved in other areas of international law.

In the same interview, answering how he came to the understanding he had of law and international law specifically, Weston replied:

It is a consequence of having been mentored at the Yale Law School by Myres S. McDougal, probably the greatest international legal theorist of the 20th century, and by Harold D. Lasswell, easily one of the greatest political theorists of the 20th century.¹³

McDougal, Lasswell, and their associates were then spelling out their LSP jurisprudence and aiming to put international law on a sociological realist decision-making process foundation, and thus rescue it from the central command rule making jurisprudence of positivism, and from natural law's lack of community based decision-making substance.

In that program, swimming in McDougal's LSP jurisprudence, working with talented fellow scholars such as W. Michael Reisman, Richard Falk, John Norton Moore, and others who would go on to prominent influential careers as international legal scholars, Weston was both a strong contributor and greatly nourished—even then showing a decided emphasis on human rights and human dignity questions through LSP. In this regard, he especially noted the humanistic influence of Falk on his own thinking. Reisman describes this period as the beginning of the “Weston phenomenon.”¹⁴ Part of that environment was the McDougal/Lasswell model of collaborative scholarship to redefine critical areas of international law, such as use of force, law of the sea, human rights, and space law, in a series of major comprehensive treatises, where the two foundational scholars anchored the writing and concepts, and brought in younger, developing LSP scholars to contribute valuably to the writing and research, and give a powerful boost to their own careers. Weston's own trajectory as a global international law scholar over the next nearly half century featured his producing and leading a prominent pattern of collaborative scholarship of major casebooks in human rights and other areas of international law. Throughout, his collaborators testified as to the rigor, quality, determination, and energy of his scholastic leadership.

¹³ *Living History Interview*, *supra* note 11, at 439. Weston wrote concerning McDougal's work and legacy on several occasions. See, e.g., Burns H. Weston, *The Role of Law in Promoting Peace and Violence: A Matter of Definition, Social Values, and Individual Responsibility*, in *TOWARD WORLD ORDER AND HUMAN DIGNITY: ESSAYS IN HONOR OF MYRES S. MCDUGAL* 114 (W. Michael Reisman & Burns H. Weston eds., 1976); Burns H. Weston, *Remarks on McDougal's Jurisprudence: Utility, Influence, Controversy*, 79 *ASIL PROC.* 266 (1985); Richard A. Falk, Rosalyn C. Higgins, W. Michael Reisman & Burns H. Weston, *In Memoriam: Myres S. McDougal (1906–1998)*, 92 *AJIL* 729 (1998).

¹⁴ W. Michael Reisman, *The Weston Phenomenon (Faculty Scholarship Series, Paper 4929, 2013)*, available at http://digitalcommons.law.yale.edu/fss_papers/4929.

Additionally, Weston's casebooks are built around Weston-evolved, LSP-defined problem-solving approaches rather than treatise approaches and organization.¹⁵ This was a strong commitment in Weston's scholarship, and was influenced over the years not only by his scholastic collaborators, but also by a 1942 Association of American Law Schools report that argued the superiority of assistance to critical legal thinking from problem-solving approaches.¹⁶

II. UNIVERSITY OF IOWA COLLEGE OF LAW

While at Yale as a Graduate Fellow, Weston became interested in going into teaching law. He was hired by the University of Iowa College of Law as an Assistant Professor in 1966. He was recruited, in part, to help inaugurate curriculum reform at Iowa, and thus to bring McDougal/Lasswell's innovative LSP jurisprudence as the basis of such reform regarding international law. From then, Weston began a lifelong devotion to Iowa Law School. In the words of former Dean N. William Hines, "Burns quickly established himself as one of Iowa's most accomplished law professors and continued to bring glory to the Iowa Law School throughout his thirty-three-year career on our faculty, and even afterward in his retirement."¹⁷ In 1983, he was awarded the Bessie Dutton Murray Professorship. Over the years, he innovatively built up the Iowa international and comparative law program, serving as Associate Dean for many years until his retirement.

In 1999, Weston received a shocking diagnosis. He had esophageal cancer and was given only a few months to live. He decided to retire on extremely short notice. Former student Amy Weismann (now the University of Iowa Center for Human Rights (UICHR) Assistant Director) recollected what happened when Weston told the class he had cancer: "He took that moment to empower us. He did not bring attention to his pain, but rather shared his knowledge."¹⁸

Weston battled the cancer, ultimately beating it after many years, and also faced related ailments throughout the rest of his life. As his sister said:

I think back on my explicable denial when you were first diagnosed with cancer: I just could not think of you as mortal then. You were given little time to live, but I didn't believe it, and you—amazingly—you beat it. You endured unpleasant treatments (without big complaints to me, at least).¹⁹

He continued his astonishing pace of productivity and involvement on many levels. He taught at Iowa each year as an emeritus faculty member. Shortly after retiring, and stemming from the 1998 Global Focus events at Iowa, Weston cofounded UICHR and served as its first

¹⁵ See, e.g., WESTON, *INTERNATIONAL ENVIRONMENTAL LAW AND WORLD ORDER*, *supra* note 3; BURNS H. WESTON, RICHARD A. FALK, HILARY CHARLESWORTH & ANDREW L. STRAUSS, *INTERNATIONAL LAW AND WORLD ORDER: A PROBLEM-ORIENTED COURSEBOOK* (4th ed., 2006) (with Supplement and Documents).

¹⁶ See REPORT OF THE COMMITTEE ON TEACHING AND EXAMINATION METHODS, *HANDBOOK OF THE ASSOCIATION OF AMERICAN LAW SCHOOLS* 85, 87–88 (1942).

¹⁷ N. William Hines, *Burns Weston Tribute*, in *Festschrift in Honor of Burns H. Weston*, 21 *TRANSNAT'L L. & CONTEMP. PROBS.* 607, 608 (2013).

¹⁸ Amy Weismann, *Remarks*, in *REMEMBRANCE*, *supra* note 9, at 104.

¹⁹ Monique Weston, *Remarks*, in *REMEMBRANCE*, *supra* note 9, at 181–82.

director for five years. He thereafter returned as interim director, and then served as Senior Scholar until his death.

III. WESTON AND THE PROJECTION OF GLOBAL FUTURES

Upon hearing of his passing, global scholar, longtime friend, and collaborator Richard Falk said: “Burns was the most dedicated and talented international law scholar of his generation and devoted his entire life to improving the wellbeing of people throughout the world.”²⁰ Weston wrote, coauthored, and edited thirty-one books, in addition to forty-four book chapters, ninety articles and book reviews, and seven independent reports. Sir Geoffrey Palmer stated:

In all the time I have known him, he has never wavered in the depth of his intellectual convictions and the extraordinary industry with which he has pursued them. Few scholars have been as productive as Burns over such a long period of time.²¹

He not only exhibited the consistent energy of a prolific scholar, but in the general areas of international and comparative law and global futures—grounded in his foundational commitment to human rights and human dignity, he was a scholar of considerable reach, as indicated above. Throughout his writings, consistent underlying themes included: his continuing commitment to the idea of global human progress, making a better world than at present for an improved human community, and mobilizing the rule of law to do so. His conceptions of better notions and models of world order and devising preferred futures for international institutions and major groups of international participants were insistently driven into his definitions of the imperatives of international lawyers to address and play key roles in resolving, especially toward more protective outcomes of human rights and human dignity. His using the vantage points (increasingly through his evolving though not divergent interpretations of the same) of LSP jurisprudence for these aims to create this vast body of scholarship carried him somewhat beyond McDougal and Lasswell in his (shared) consistent focus to drive that jurisprudence as a process of decisions into all areas of international law. Weston resolved to do so in each such area based on the centrality of human rights and human dignity imperatives throughout his addressing, and correcting, the jurisprudence of both contemporary problems and of constructing preferred futures.

But even as he projected new and better future law and world order, Weston aimed through his scholarship to create and explain evolutionary connections between contemporary law, policymaking, institutions, cultural norms and expectations, and his projected better human rights and dignity-protective interpretations, prescriptions, and outcomes. This was a consistent trend, even in his constructing and calling for realizing a new ambitious and radical global paradigm through GREEN GOVERNANCE.²² For he did not wish to project utopian legal, institutional and policy futures, but rather to project better futures as achievable, if difficult, pathways to be scaled toward more humane summits of equitable existence.

In this regard, Weston’s perspectives had little room for some recent “revisionist” trends of human rights scholarship seemingly dedicated to prescribing limits to the authority of protecting human rights as a human community imperative under law. This rejection arguably would

²⁰ Richard Falk, *Remarks*, in REMEMBRANCE, *supra* note 9, at 16.

²¹ Palmer, *Remarks*, in REMEMBRANCE, *supra* note 9, at 28.

²² GREEN GOVERNANCE, *supra* note 3.

include prescriptions looking back toward positivism and narrow rule-oriented definitions of human rights law based exclusively on ratified treaties, and threatening to return state sovereign prerogatives to exclusive, formalistic and controlling authority in defining human rights and human dignity protection, especially for vulnerable peoples.²³ It would include scholarly claims such as the claim that human rights law has become “too hegemonial,” excluding all other approaches to human emancipation, and often conducive to ineffective policymaking.²⁴

Weston’s final major contribution to human rights scholarship was his creation (with David Bollier) of a new paradigm to surmount jurisprudential and policy barriers to an effective and urgent global response to the onrushing threat of global climate change and its consequences. Identifying the “state/market” duopoly as a major conceptual and policy impediment here, Weston drew on a fresh in-depth approach to the “law of the commons” to ambitiously define a new paradigm of global governance and human rights law to address state prerogatives and other barriers. The aim was to provide better policy opportunities under international and other pertinent law to reduce the rate of climate change to workable levels, and to work around the current embedded assumptions about global governance arising from the state/market duopoly. GREEN GOVERNANCE was the culminating outcome of this enterprise.²⁵

The book was critically reviewed globally, generally favorably. Reviewers’ perspectives often concluded that it was truly paradigm-shifting regarding its bringing forward a new vision of the traditional law of the commons for global application. The new paradigm was anchored by a reimagined human right to a clean environment, which included the collective right to environmentally protective “vernacular law” to govern an evolved global commons, that right being promoted to bypass familiar state/market-generated methodologies that blocked urgently meeting encroaching destructive climate change. They generally agreed with Professor Edith Brown Weiss who praised the book for “[developing] a new paradigm for protecting our global environment by marrying concepts of the commons and human rights. It is path breaking in its reach and points a way to better governance at all levels.”²⁶ Some reviewers were more doubtful about the transformative potential of a “global commons” and other key concepts, and possibilities of their implementation, including questions on: overemphasis of multinational corporate causality of climate change; undervaluation of current top-down legislative and other state/government environmental protection programs; underestimation of competing normative notions not favoring the new paradigm (such as the Republican Tea Party); undervaluing the “recalibration of humankind’s relationship to nature” that is already underway; overreliance on “the imminent danger thesis” regarding climate change urgency and perhaps simplifying the basic problem; the appropriateness of a human rights model for

²³ See discussion by Philip Alston, *Does the Past Matter? On the Origins of Human Rights*, 126 HARV. L. REV. 2043 (2013) (book review) (especially at 2066 on THE NEW REVISIONISTS).

²⁴ See DAVID KENNEDY, THE DARK SIDES OF VIRTUE: REASSESSING INTERNATIONAL HUMANITARIANISM 3–37 (2004) [*Chapter One: The International Human Rights Movement: Part of the Problem? as reprinted in* PHILIP ALSTON & RYAN GOODMAN, INTERNATIONAL HUMAN RIGHTS: THE SUCCESSOR TO INTERNATIONAL HUMAN RIGHTS IN CONTEXT 504 (2013)].

²⁵ GREEN GOVERNANCE, *supra* note 3.

²⁶ Email from Edith Brown Weiss to the authors (Apr. 10, 2016, 2:10 PM EST) (on file with authors). Notably sharing this perspective, even as they raise some implementation questions about the new paradigm, are David Stewart, *What to Do About the Environmental Challenge?* 26 GEO. INT’L ENVTL. L. REV. 191 (2014) (book review); Catherine Iorns Magallanes, Book Review, 5 J. HUM. RTS. & ENV’T 102 (2014); and Vito De Lucia, Book Review, J. ENVTL. L. 373 (2015). Less enthusiastic but still generally favorable was John R. Morss, *Resources for a Future: Towards an Articulation of Global Governance*, Review Essay, 15 MELBOURNE J. INT’L L. 584 (2014).

resolving global climate change solutions; and underestimation of human rights law's growing contemporary influence in climate change governance.²⁷ However, Weston (and Bollier) from the beginning had set out to construct a new paradigm that invited, even demanded, follow-up work from other scholars and policymakers on these and related questions, rather than settle all dilemmas.

In this his final sustained body of world order scholarship, Weston's career-long predilection toward macrohistory, his commitment to critically assessing the architecture of the international community and generating new sources of progress toward a more humane and rights-protective world order, and his deep commitment to protecting human rights and human dignity under the rule of law no matter the evolution of policy goals and community circumstances, all converge. They converge in a final demonstration of imaginative projection of legal scholarship and defined policy goals toward an imperative new world order of the global commons, as needed to break away from and go beyond paralyzed global policy reasoning to meet a worsening threat of climate change. This amounts to not so much a swan song for this leading, values-driven international legal scholar, as it does a rather complete mining of the fruits and basic values of his career, and raising their multiplied international community implications to yet another level of contemporary, humane, and prescriptive excellence.

IV. PRACTICE AND CONVICTION

It has already been noted that while Weston was practicing at Paul Weiss in New York, and prior to his returning to Yale Law for his J.S.D., he had already developed a body of scholarship on international claims law, including fine treatments of, e.g., issues of newly independent governments and expropriation of foreign corporate investment property.²⁸ Among his many other scholarly and programmatic interests, he continued this scholarship after he joined the Iowa law faculty in 1966, including in coauthor/coeditorship with Professor Richard Lillich of Virginia Law School.²⁹ And as Reisman has noted, this scholarship from even prior to his entry at Yale continues to be cited today.³⁰

Relatedly, but perhaps more important, Weston firmly believed that his human rights scholarship, as prolific and prominent as it was in devising and clarifying progressive rights protective processes under law, must necessarily be accompanied by his personal participation in situations of human rights "law in action," and by, in his words, his "weighing in" on major contemporary human rights questions. His convictions coupled with his energy in this regard were strong, and he often exhibited personal courage in acting on them. Three general examples can be mentioned here: his profound disagreement with American policy on the Vietnam War; his accompanying the assassination-threatened South Korean dissenting democratic

²⁷ See, e.g., John Copeland Nagle, *The Environmentalist Attack on Environmental Law*, 50 TULSA L. REV. 593 (2015); Ole W. Pedersen, Book Review, J. L. & SOC'Y (Cardiff University Law School) 468 (2013); and John H. Knox, Book Review, 108 AJIL 131 (2014).

²⁸ See *supra* note 1.

²⁹ See LILlich & WESTON, INTERNATIONAL CLAIMS, *supra* note 1.

³⁰ See, e.g., Dawson & Weston, *supra* note 1, cited in Jason Webb Yackee, *Pacta Sunt Servanda and State Promises to Foreign Investors Before Bilateral Investment Treaties: Myth and Reality*, 32 FORDHAM INT'L L.J. 1550, 1560 n.46 (2008).

leader Kim Dae Jung back to South Korea from exile; and fact-finding trips to Kosovo, Palestine,³¹ Cuba, and the Republic of Georgia.

Weston's opposition to the Vietnam War began while he was still practicing law in New York. Over much of the next decade, Weston manifested his opposition to American policies and legal interpretations, through lawyers' committees, advising and dialoguing with student groups and demonstrations, an oppositional lecture at the Naval War College, and similar activities.

The Vietnam War was a watershed in Weston's scholarship and thinking. As he reported, it moved him away from international claims scholarship and other traditional international lawyering, and toward world order teaching and scholarship, to teach and write about international law and affairs—in Richard Falk's memorable phrase—“as if people really mattered,” and to try to ascertain what kinds of norms, procedures, and institutions the world needs to ensure or facilitate humane governance for all people. Thereafter the question of whose interests he was really serving rose in importance in Weston's professional life and scholarship.

Additionally, during his career, in and around his numerous projects and prolific scholarship, Weston made several fact-finding trips abroad. These included Kosovo in the early 1990s on a human rights fact-finding and conflict-mitigation mission. After meeting with Yugoslav officials and Kosovar leaders and recommending a UN protectorate for Kosovo, he drafted, prior to the NATO bombing of Serbia, a proposal for a United Nations Temporary Authority for a Negotiated Settlement in Kosovo.³² But it was not adopted, and Weston believed that this refusal perhaps made the NATO bombing inevitable, and that all possible peaceful remedies had not been exhausted to prevent military conflict. He generally agreed with the motives behind the Kosovo intervention, while disagreeing with important aspects of its execution, such as the American refusal to commit ground troops and therefore minimize “collateral damage,” even as he fully comprehended Milosevic's atrocities. And he counted the latter's trial as a head of state for war crimes before the International Criminal Tribunal for the Former Yugoslavia as a valuable victory for international law.³³

There were other missions, including to Palestine and Cuba. John Quigley reports on “saving Burns from himself.”³⁴ In Nablus, Palestinian boys holding rocks were confronting Israeli soldiers backed by a nearby tank, and Weston, believing the soldiers were overreacting, was about to run up to the tank to confront the soldiers, until Quigley pointed out that “he was no match.”³⁵

V. CONCLUSION

Weston's career featured many honors and involvements. He was a member not only of the *AJIL* Board, but also of the editorial boards of several professional journals.³⁶ From 1994 to

³¹ See Richard Falk & Burns H. Weston, *The Relevance of International Law to Palestinian Rights in the West Bank and Gaza: In Legal Defense of the Intifada*, 32 HARV. INT'L L.J. 129 (1991); Richard Falk & Burns H. Weston, *The Israeli-Occupied Territories, International Law, and the Boundaries of Scholarly Discourse: A Reply to Michael Curtis*, 33 HARV. INT'L L.J. 191 (1992).

³² *Id.* at 451.

³³ *Id.*

³⁴ John Quigley, *Remarks*, in REMEMBRANCE, *supra* note 9, at 48.

³⁵ *Id.*

³⁶ See, e.g., HUMAN RIGHTS QUARTERLY; HUMAN RIGHTS & HUMAN WELFARE, an international journal of critical essays and book notes on major human rights, justice, and welfare issues; INTERGENERATIONAL JUSTICE

2003, he served as Series Editor of the Procedural Aspects of International Law Monograph Series, the oldest continuing international law book series in the United States. Further, he was active in many organizations, including serving as ASIL Vice President, Counsellor, and a member of the Executive Council.³⁷

In recognition of his many and diverse accomplishments, Weston was variously honored. His two-volume treatise coauthored with Richard B. Lillich, *INTERNATIONAL CLAIMS: THEIR SETTLEMENT BY LUMP SUM AGREEMENTS*,³⁸ was awarded a “Special Commendation” by the American Society of International Law at the Society’s Annual Meeting in April, 1978. ASIL presented him the “Award for a Work Exhibiting High Technical Craftsmanship and Utility for 1981” for *INTERNATIONAL LAW AND WORLD ORDER: A PROBLEM-ORIENTED COURSEBOOK*.³⁹ After his retirement, Weston became the Bessie Dutton Murray Distinguished Professor of Law Emeritus, among many other honors during his career.

Burns’ internationally-based family was critically important to him. He is survived by his wife Dr. Marta Cullberg Weston of Stockholm, Sweden, who is a psychologist, psychotherapist, and writer; sister Professor Emerita Monique Weston (New York); son Professor Timothy Bergmann Weston, professor of Chinese History at the University of Colorado in Boulder; and daughter Rebecca Burns Weston, a lawyer turned clinical social worker in Missoula, Montana. Additionally, he has four grandchildren (Leah and Emma Yonemoto-Weston, Elijah and Isabella Weston-Capulong); three stepchildren (Malin, Johannes, and Martin Cullberg); and five stepgrandchildren (John Birger Wedinger, Olivia Lampenius Cullberg, Sima Wiernik Cullberg, Joar Wiernik Cullberg, and Cecilia Lampenius Cullberg). His children have published a collection of remembrances about his life and career.⁴⁰

As his daughter Rebecca said:

Again and again, through deeply moving and passionate remembrances from people as far away as Kosovo and as near as Iowa City—I have seen just how hard you tried to hold the world in your hands. Containing, urging, stabilizing, cautioning, sounding warnings, sharing visions, voicing impassioned, intelligent optimism, encouraging connections and providing maps—through our planet’s darkest worries. I draw on those maps all the time, in my own way, in my own voyage through the traumas visited upon our world. I yearn for those maps today, as we stand on the brink of more war, more racist reaction and more terror.

REVIEW, a German-based quarterly of current research and thinking from political science, law, and ethics concerning the rights of future generations; and *TRANSNATIONAL LAW & CONTEMPORARY PROBLEMS* (TCLP).

³⁷ His other organizational affiliations include: Fellow of the World Academy of Art and Science (WAAS); a member of the Board of Directors of the Procedural Aspects of International Law Institute (PAIL); member of the Board of Directors of the Lawyers Committee on Nuclear Policy (LCNP); member of the Academic Council of the International Association of Lawyers Against Nuclear Arms (IALANA); and a founding member of the Midwest Coalition for Human Rights (MCHR). Additionally, he was: a life member of the New York based Council on Foreign Relations (CFR); an elected member of the National Council of the Federation of American Scientists (FAS); and a member of the Advisory Council of the International Human Rights Law Group (IHLRG), now known as Global Rights—Partners for Justice.

³⁸ See *supra* note 1.

³⁹ See BURNS H. WESTON, RICHARD A. FALK & ANTHONY A. D’AMATO, *INTERNATIONAL LAW AND WORLD ORDER: A PROBLEM-ORIENTED COURSEBOOK* (1st ed. 1980).

⁴⁰ See REMEMBRANCE, *supra* note 9.

And let me use this time to talk about the hands you provided in shaping a perspective on aging and survival—because in fact, that is what you did, also. You provided hands—honest, clear, determined, open and freely scared—through the path of illness, adaptation, and new physical reckonings.⁴¹

Indeed, it is clear. Weston believed to the end that:

I am my brother's and sister's keeper. I do believe we can make the world a better place for our children and grandchildren, and that we have, indeed, a moral responsibility to do so, and thus to weigh in to make it all happen in even the smallest of ways.⁴²

We will miss him. The human rights community has lost a champion.

⁴¹ Rebecca Weston, *Remarks, in* REMEMBRANCE, *supra* note 9, at 178.

⁴² *Living History Interview, supra* note 11, at 443.