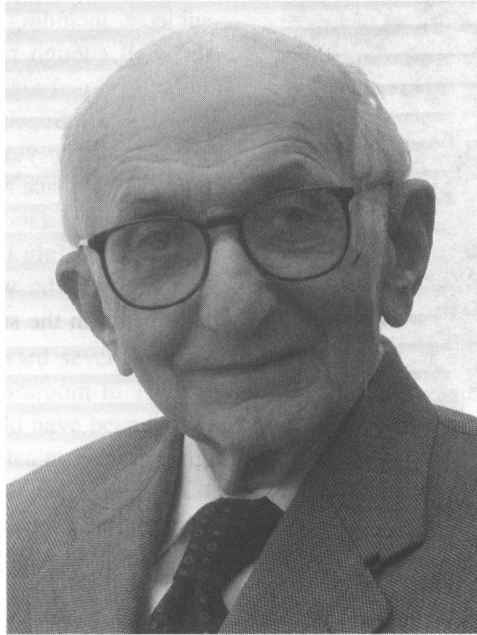


IN MEMORIAM

LOUIS HENKIN—by Lori Fisler Damrosch*



It was at the Society's Annual Meeting 30 years ago that I had my first face-to-face conversation with Louis Henkin. He reached out to me then, as I know he reached out to many others here, of different generations, over the half-century that he was a leader in this Society and in the teaching and practice of international law. On Monday, March 28, we will commemorate Lou's life and work with a celebration at Columbia Law School. I hope that many of you can join us for the memorial at 4:00 and a panel discussion at 6:30.

The April 2011 issue of the *American Journal of International Law* will also carry a tribute to our former editor in chief and former president of this Society, with an assessment of his lifetime of scholarship and activism in support of the rule of law in international politics and U.S. foreign relations. In the forthcoming tribute in the *Journal*, I try to express in brief compass, but in more depth than is possible here, something of the significance of Lou's scholarship and the influence of his ideas on the world. Tonight, with thanks to the Henkin family, Columbia Law School, and ASIL, we have a few slides to show to recall some aspects of his remarkable life.

Henkin was born on November 11, 1917, in what is now Belarus. The family arrived at Ellis Island in 1923. Lou spoke Yiddish at home, studied in Hebrew at school, and learned English on the streets of New York. He majored in mathematics at Yeshiva University and applied to Harvard Law School on a whim, receiving his law degree in 1940.

In front of an audience which includes so many professors and students of international law, I have to disclose something that is not a secret. In fact, it is a shared truth about Lou Henkin and others of his generation who shaped the postwar world of international law in the United States, including his friend and colleague from Harvard, Abram Chayes, and

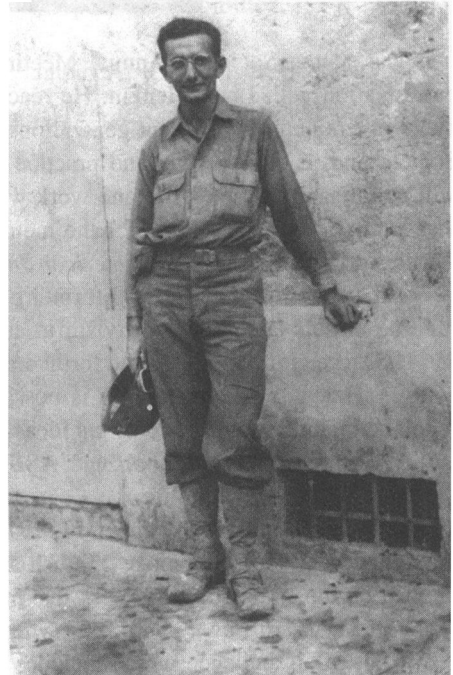
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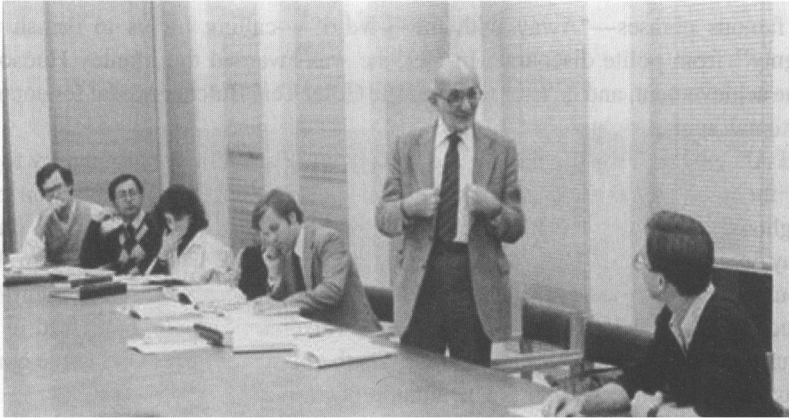


his friend and colleague at Columbia, Oscar Schachter: *Lou never took a course in international law.* He took the usual domestic subjects, including constitutional law, and did well enough to land a clerkship with Judge Learned Hand of the Court of Appeals for the Second Circuit for the 1940–1941 academic year. Judge Hand then secured him a place as a law clerk for Justice Felix Frankfurter on the U.S. Supreme Court. But before Lou could get to the Supreme Court, he was drafted and sent to boot camp in the summer of 1941.

When the United States entered the war after Pearl Harbor, Lou was sent first to North Africa and then to Sicily, Italy, France, and Germany. In France in 1944, his unit of 13 men encountered a German unit of 78 soldiers. Using Yiddish, he got the German unit to surrender, and for this act of valor he was awarded the Silver Star.

After the war Henkin was able to reclaim his Frankfurter clerkship and then had a stretch of time at the State Department, where among other things he was a negotiator for what became the 1951 Convention on the Status of Refugees. In 1956 he took leave from the State Department to spend a year at Columbia, where he wrote his first book, *Arms Control and Inspection in American Law*. He then had five years on the faculty of the University of Pennsylvania before returning to Columbia for good in 1962.





I am going to fast-forward several decades to a typical slide from the Columbia archive, showing Lou in the classroom in 1985. It shows an eager group of students in a human rights class, which could have been from any era. I'd like you to look at the young man in a suit who is taking notes at Henkin's right arm. That young man was Lou's co-teacher—the executive director of the Lawyers Committee for Human Rights (now Human Rights First), of which Henkin was a founding director. If you came to yesterday's plenary session, you would recognize him as Michael Posner, Assistant Secretary of State for Democracy, Human Rights and Labor, who gave a major policy address yesterday in which themes of Henkin's teaching are clearly evident. This is just one illustration of how Lou's students and colleagues have gone out into the world to carry his ideas into action.

In the 1960s, 1970s, and 1980s, Henkin wrote the first editions of his major books, *How Nations Behave*, *Foreign Affairs and the Constitution*, and *International Law: Cases and Materials*, and also gave his general course at the Hague Academy of International Law which was published as *International Law: Politics, Values and Functions*. My AJIL tribute has something to say about each of these works and other elements of his scholarship.

Also in the era in which this photo was taken, Henkin was bringing to completion the decade-long work for the *Restatement (Third) of the Foreign Relations Law of the United States*. There will be discussion of that herculean effort at our Columbia program on Monday night.



Here we see Lou and Alice Henkin, together at one of the ASIL Annual Meetings of the 1990s. Lou held all the important leadership positions in this organization and served as president from 1992 to 1994. It was in his presidential column that he penned one of

his most famous phrases—“Away with the S-word!”—calling for us to banish the term “sovereignty” from polite discourse. In 1995 he was awarded the Manley Hudson Medal for lifetime achievement, and he later received the Goler Teal Butcher Medal for contributions to international human rights.

Lou and Alice were full partners in all aspects of life during their half-century together—in raising their sons, Joshua, David, and Daniel, and in their shared labors on behalf of human rights and international law. Their joint achievements were celebrated on Human Rights Day in December 2010, when Secretary of State Hillary Clinton conferred on Lou posthumously, and on Alice in person, the Eleanor Roosevelt Award for Human Rights.

I conclude with the closing passage from Lou’s valedictory article, published in 2005, in which he urges his hearers and readers to carry on the hard work of realizing the core values of constitutional and international law in tumultuous times:

[U]niversities need to educate themselves and others in the commitment to the rule of law, *including international law, even in the age of terrorism.*

Constitutional law as well should, and will, survive and govern us in the age of terrorism, however long it lasts. The Age of Terrorism cannot, should not, be allowed to supersede the Age of Rights. Respect for our Constitution and its values depends on us, on you and me, especially on you.