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BACKLASH TO THE INTERNATIONAL LEGAL ORDER: BREAKDOWN OR BREAKTHROUGH?

This panel was convened at 12:30 p.m., Friday, March 26, 2021 by its moderator, Peter Danchin of the University of Maryland Law School, who introduced the speakers: Jamil Dakwar of the ACLU Human Rights Program; Shruti Rana of Indiana University at Bloomington; Amb. Ebrahim Rasool, former South African Ambassador to the U.S.; and Anne-Marie Slaughter of New America.

Remarks by Peter Danchin*

doi:10.1017/amp.2021.139

The origins and implications of the current backlash to international legal norms and institutions are arguably the most pressing and perplexing issues in international law today. We appear to be at a moment when the modern internationalist vision of multilateral cooperation and global governance is widely understood to be under assault and unraveling, and when ideas of supranational organization and post-national sovereignty are increasingly resisted.

The causes of the backlash are of course infinitely complex and multifaceted, but international lawyers tell a broadly familiar story. Following the disastrous consequences of the invasion of Iraq in 2003, the global financial crisis in 2008, and the attendant effects of years of neoconservative American foreign policy and neoliberal economic policy, a populist backlash has emerged that opposes not only global governance conceptions of international law, but also key pillars of the post-World War II UN Charter "liberal" regime of sovereign equality and collective security.

For critical international legal theorists, these currents can be traced to contradictions internal to the normative structure of international law itself and, in particular, the dramatic shift in understandings of sovereignty under conditions of technological globalization. Some argue that these developments in fact portend a deeper, existential crisis of values that goes well beyond the academic tendency to explain the entirety of backlash phenomena solely in terms of economic factors and material well-being.

So these then are the key questions and themes facing the field: Are we in fact backsliding from a rules-based international order to a more lawless world? Is there an existential crisis of values driving resentment against the liberal international order? Has the rules-based international order, perhaps counterintuitively, itself served to incubate authoritarian populism and illiberal democracy?

Remarks by Shruti Rana**

doi:10.1017/amp.2021.140

We find ourselves today poised on the edge of a moment of transition. As the traditional structures and institutions of the post-World War II global legal order weaken or fall around us,

* Associate Dean for Research and Faculty Development, Jacob A. France Professor of Law and Director, International and Comparative Law Program, University of Maryland Francis King Carey Law School.

** Assistant Dean for Curricular and Undergraduate Affairs, Professor, International Law and Director, International Law and Institutions Program, Hamilton Lugar School of Global and International Studies, Indiana University Bloomington.

https://doi.org/10.1017/amp.2021.139 Published online by Cambridge University Press