

## IN MEMORIAM

### PROSPER WEIL (1926–2018)

By *W. Michael Reisman\**

In 2001, the American Society of International Law awarded Prosper Weil the Hudson Medal for his achievements and service to international law. Professor Weil died in October 2018 and the Society mourns his passing.

Prosper Weil was born into an observant Jewish family and grew up in a small village near Strasbourg. The war broke out three weeks after he celebrated his bar-mitzvah, and in July 1940, Prosper and his family were expelled, along with most Alsatian Jews, to the Vichy-administered Free Zone. His family settled in Nice where, by mere chance, they managed to evade the many roundups of Jews. They remained there until the defeat of the Nazis and the liberation by the U.S. Army in August 1944. I draw attention to Prosper's origins because being a Jew and observant was an important pillar of his life and, though private, I think he would have wished it to be noted—especially now. One of the three courses he delivered at The Hague Academy was entitled “Le Judaïsme et le développement de droit international.”<sup>1</sup>

Prosper commenced his career in administrative law where he quickly won renown. He began to veer toward international law in the early 1960s with a course of lectures on international administrative law. But long after he, himself, had turned to international law, his administrative law scholarship continued to be authoritative in France and Francophone countries.

Prosper was named professor of international law at Paris II in 1965 and also served as the director, then honorary director of the Institut des Hautes Études Internationales de Paris. He was a member of the Institut de Droit International and was elected to the Académie des Sciences Morales et Politiques, filling the chair left vacant by the death of René-Jean Dupuy.

Prosper was involved, as counsel or arbitrator in many of the great cases of his generation, among them *Minquiers et Ecréhos*, *Rainbow-Warrior*, *Barcelona Traction*, *Beagle Channel*, *Qatar v. Bahrain*, *Fisheries Jurisdiction*, and *Oil Platforms*. He was a member of the Administrative Tribunal of the World Bank and presided over it from 1989 to 1993. He was a frequent arbitrator in international investment arbitrations. A man of principle, he did not hesitate to dissent and in the celebrated case of *Tokios Tokelés*, where he served as chairman, he dissented from the Decision on Jurisdiction and then resigned.

In addition to his “Law of Maritime Delimitation,” American international lawyers knew Prosper's work largely through his seminal essay in the *American Journal of International Law*, “Towards Relative Normativity in International Law,”<sup>2</sup> elaborated in his General Course at The Hague, “International Law in Quest of Its Identity.” Both reflect his analytical precision and register his disquiet over the proliferation of types and levels of normativity in contemporary

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<sup>1</sup> RADI Volume 151.

<sup>2</sup> 77 AJIL 413 (1983).

international law. His critique of this development stirred controversy, though it is now taken for granted that an inescapable part of the task of the contemporary international lawyer is to identify, for each problem and each situation, the *applicable* and *effective* law. In rereading Prosper's analyses, one encounters a jurist in torment over this recurring challenge. "We find ourselves," he wrote, "adrift in ever-widening circles of increasing uncertainty." Yet, ever the scientist, he acknowledged that what he called "pre-normative acts" ... I quote his words, "do create expectations and exert on the conduct of States an influence that in certain cases may be greater than that of rules of treaty or customary international law."<sup>3</sup>

I had the privilege of knowing Prosper and his wife, Viviane. Working with them on a case before the Court, I saw how much Viviane, a lawyer and former classmate of Prosper, contributed to Prosper's work. They were, in fact, a two-person law firm, as Daphne Richmond Barak, Prosper's granddaughter, described it.

As a person, Prosper always had the courage of his convictions. In personal demeanor, he was courteous, dignified, and modest, never retreating on a matter of principle but never pushing to the point of being cantankerous. In a eulogy, Alain Pellet, the president of our French colleague society, described Prosper with Gallic precision as "a great scientist, a great gentleman, a good man." That says it all.

<sup>3</sup> *Id.*