

IN MEMORIAM

HOWARD HOLTZMANN—by Arthur Rovine*

I first met Howard Holtzmann in May of 1981 at the new Iran/U.S. Claims Tribunal. Howard had just been named one of the three American arbitrators on the Tribunal, and I had just been named U.S. Agent to the Tribunal. After we met, he immediately took me to see Pieter Sanders, a leading expert in international arbitration. It was very clear from the outset that Howard also knew a lot about international arbitration. I knew he had been a labor arbitrator and, in fact, that's how he earned his great reputation. I knew nothing at that time about international arbitration but I certainly learned a lot from Howard at the outset, as so many people did. He was a great teacher.

Initially, we met as a group—the Iranian arbitrators, the Americans—and we selected three Europeans to serve as chairmen, and Howard was the *de facto* leader of the group. We turned to procedure, and Howard really shined. He loved procedure. It was his thing. If he were an academic, he'd be teaching a course in international arbitration procedure. It's what he loved most. And as we adapted the UNCITRAL Rules, which had been formally adopted in 1976, to the needs of this Tribunal in 1981, there was a lot of work to be done. It took us months, but Howard had the precision, the imagination, the sensitivity. He knew—really knew—what had to be done. And it was done. And the rules were successfully adapted to the needs of the Tribunal, and so we then went into the cases.

And there too, was Howard . . . he might not have talked as much about the substance of the issues. Nevertheless, he wrote beautifully. He wrote persuasively, and to this day I have, when I serve as an arbitrator, cases from the Iran-U.S. Claims Tribunal cited to me in the written pleadings and in the oral argument. And some of it comes directly from Howard Holtzmann.

He went on to do much more for UNCITRAL. The contribution was enormous. The rules had to be brought up to date, and so they were in 2010. It took four years to do that, going back and forth between the UN in New York, and the UN in Vienna. But we did it. I was there, representing the New York City Bar Association, and it was a pleasure to watch Howard at work on these rules, because there was the same precision and accuracy, and the close attention to detail, and with the same imagination he had showed before. And so ultimately after four years those rules were done, but he didn't stop there.

The UNCITRAL Arbitration Rules, of course, are just one of Howard's great contributions. The UNCITRAL Model Law is another, filling in the great gap of the New York Convention, and it's enforced in some 67 governmental entities today, including six states in the United States, including the state of Texas. But Howard didn't stop there. There came next the UNCITRAL Notes and the Conciliation Rules. He loved the Conciliation Rules. He told me one day, "This is it. This is the future. It's the wave of the future." That's how he put it to me: "This is the wave of the future." Will it be? I don't know, but that was his view.

The Notes were and are very important. They were his idea, and he wrote most of them. The idea is to review procedural issues before the arbitration begins. I can't list them all in the few minutes I've got, but all of the procedural issues that may arise during the course of an arbitration may be raised and the parties try to reach agreement on them. From that comes Procedural Order Number 1. It's a framework order, and it tells you how this arbitration will be handled procedurally. And every time I look at those Notes, I think of Howard.

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When I see the UNCITRAL Rules, and the Model Law and the Conciliation Rules, I think of Howard. They are some of the contributions he made, apart from the substantive decisions at the Iran-U.S. Claims Tribunal.

Howard was also a personal friend. We had many dinners at his place, since we lived so close together, and they were fascinating. We talked about our children—both their accomplishments and their difficulties. We spoke, of course, about procedure. We couldn't get through a dinner without it. I don't think I ever had a conversation with him about fair and equitable treatment, but I certainly had conversations with him about procedure. It's just the way it was. And then, inevitably, we would turn to politics. He loved to talk politics. His politics were more conservative than mine, but he was a liberal Republican, as was his father before him. He was of the Nelson Rockefeller, Jake Javits, John Lindsay mold, and he stuck with it. He had me opposing him, as well as my wife and his own wife—so it was three to one against him, but he stuck with it.

And then, of course, the generosity. Enormous. Yale—his beloved Yale. As I think most of you know, he set up an endowed chair in international law at Yale. He set up the Jewish Chaplaincy at Yale, and, of course, the contribution he made to the Society, which is the Howard Holtzmann Center for the Study of International Arbitration and Conciliation. The word "mediation" is not there, but "conciliation" is. The wave of the future, in his view.

It's hard to do Howard justice in a few minutes. There's a lot more to be said, but he made huge contributions—of procedure, of substance, and he mentored many people who entered the field, including many clerks, such as Donald Donovan here who worked with him at the Tribunal. They owe him, as I do, as many people do, a great debt of gratitude. The creativity, of course. The generosity, of course. The friendship, of course. For all this we will sorely miss him. He was great.