

Sir Hersch Lauterpacht: An Appraisal

*Chaim Herzog**

Despite our family connections,¹ I was never closely associated with Hersch Lauterpacht. I recall him as a kind and considerate uncle to my children, with whom he established close relations, and of course his renown as a giant in the field of international law culminating in his accession to the International Court of Justice in the Hague.

Despite his lifelong connection with Zionist affairs and with Israel, Hersch Lauterpacht must be remembered as an international lawyer of universal outlook. The third of a century from the publication of his first book in 1927 to his untimely death in 1960 was a period largely unaffected by the North-South, anti-colonialist and East-West divisions that marked the following thirty years from 1960 to 1990. Nor were the massive substantive developments of those years, particularly in the fields of the environment, the law of the sea, the extension of protection of human rights, disarmament and confidence-building measures, foreseeable during his lifetime.

But although he wrote during a time when international law was relatively static, set in a mould formed more than half a century before his immersion in the subject, he wrote with a unique sense of legal principle and especially a novel, even in his time daring, belief in the position of the individual as a subject of international law. This belief was translated into a proposal, published in 1945, for the establishment of an international bill of human rights. This document had an immediate impact upon the emerging European commitment to the formal protection of individual rights in the shape of the European Convention on Human Rights concluded in 1950.

Lauterpacht's ideas on this subject began to evolve even in his student days in Vienna. There, as a leader of the Jewish student movement, he took a particular interest in the then recently developed concept of the 'mandate' in relation to Palestine and other Turkish and German colonies. This led to his first book on *Private Law Sources and Analogies of International Law* (1927).

The loss of his own family in Poland during the Holocaust undoubtedly influenced the development of his ideas regarding individual responsibility for war

* Mr. Herzog was President of Israel from 1983 to 1993.

¹ Sir Hersch Lauterpacht was married to the aunt of the author's wife.

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crimes and for crimes against humanity. He made important contributions to the preparation of the prosecution of the major German war criminals. At the time of the emergence of the state of Israel he provided a draft of the declaration of independence which, though not adopted as such, can be seen to have had many ideas in common with the text which finally emerged. His stature in the field and his association with Israel were recognized by the conferment on him in 1950 of an honorary doctorate of the Hebrew University of Jerusalem.

The dedication to Hersch Lauterpacht of the present issue of the *European Journal of International Law* will be recognized as a highly appropriate tribute to one who in his person and in his writings combined so pre-eminently the civil law tradition of his continental origins and the common law tradition of the country of his adoption.