

To create space in which to create: nothing so pleased Lachs as his hoard of honorary degrees, from every region, every bloc. He openly sought these symbols of universal recognition not out of vanity—he was utterly unassuming—but because they served as sentinels of the space he needed to create a jurisprudence, to be his own person. He delighted in being chosen by African litigants for a chamber or an arbitration and in being nominated for reelection by the American National Group, among many others. Edith Brown Weiss's study of voting patterns in the Court came as a balm, for it refuted the hurtful allegations, made at the time of the *Nicaragua* litigation, that he represented Communist policy, that the space he had striven all his life to create was not art, but only *trompe l'oeil*.

He bristled at being labeled the "Polish judge," yet he was intensely Polish, part of an intellectual tradition that still makes battered, run-down Warsaw the Paris of Eastern Europe. He strove to nurture and protect several generations of Polish international lawyers who had learned from him, not least how to create space for creativity. He played a quietly productive role in the transition from military rule to democracy.

Still, to say that Manfred Lachs was Polish is true only in the sense one may observe that the *Winged Victory* is stone. The work of art that was Manfred Lachs's life was fashioned, with the infinite eye, by the artist's grace.

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### THE TEACHER: LACHS AT THE HAGUE ACADEMY

The audience at the 1980 General Course in Public International Law of the Hague Academy of International Law<sup>1</sup> will never forget the moment when Judge Manfred Lachs finished the last lecture: a burst of applause, in recognition of a lifetime of experience, was followed by a twenty-minute standing ovation that seemed to go on and on. Both teacher and students were moved. Many students shed tears of gratitude to this great teacher and jurist, while the teacher himself was seen wiping his eyes, so touched was he by the affection of his students. As the tradition goes, Professor René-Jean Dupuy, the Secretary-General of the academy, came forward to thank the lecturer. He concluded by saying that never before had any speaker been given such a warm tribute at the academy. A remarkable teacher was deservedly saluted by his pupils for having examined the fabric of international law, thread by thread, through the perspective of history. It was an unbiased, scholarly presentation—delivered at the peak of the Cold War by a man from an east bloc country—that touched on the issues of North and South, and East and West, without leaning one way or the other or slighting contemporary realities. He stood head and shoulders above those who indoctrinate their audiences in the futility of international law. Judge Lachs presented international law as it is, and the trends in its development, without ever forgetting the central objective: the quest for global political, social and economic justice. His course was an instant classic.

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<sup>1</sup>Manfred Lachs, *The Development and General Trends of International Law in Our Time*, 169 RECUEIL DES COURS (1980 IV).

We revere the Hague Academy in America yet ignore its lectures. The review of Judge Lachs's General Course published in this *Journal* in 1985<sup>2</sup> seems not to have appreciated the intensity of the lecturer's passion for advancing the principles of international law. Most important, the review failed to grasp the feelings, the concerns, the devotion with which this course was taught. In the short space permitted here, I shall try to right the balance by reflecting on one of the dominant themes of the lectures: a historical approach to understanding international law.

The course was not directed to any specific group; it was for the people of all shades and colors who had come to the temple of international law from all corners of the world. His presentation did not limit itself to the traditional claims of European or Christian proprietorship of international law; instead, one by one, he explored the contributions made by all races, nations and ideologies. Such an uncolored depiction of the trends of development in international law showed that there are many versions of international legal theory. Students were introduced to the important aspects of global history—the politico-economic factors—that shaped the structure and process of modern international law.

It was a voyage of imagination, dissecting layer by layer the history of the theoretical foundations of public international law; through his vivid recreation of that history, the lecturer made complex ideas and situations simple. It was also a journey to discuss some of the problems encountered by international law in its evolutionary path. As he pointed out, his was an attempt to draw a line between Grotius and Machiavelli. This course stood exactly between critics of international law and idealists. It was a perfect blend of reality, necessity and aspirations. It distilled all views without endorsing any. Judge Lachs's position was clear: international law and its effectiveness must be assessed by understanding the role of history in shaping the entire landscape of international legal thought. The course is a classic, not because the teacher preached any particular ideology, but because he embraced historical truth, contemporary reality and the needs of the future. His position remained unchanged until his death.<sup>3</sup> Decidedly, this was a daring and convincing attempt to present the trends in the developmental process—nurtured by the forces of history, philosophy, politics and economics—that have helped international law to mature.

This course was very different from what is normally taught in the traditional law school setting. Judge Lachs made a conscious effort to help “nuts and bolts lawyers” grow out of a narrow conception of international law. He showed that to make effective use of international law a wider understanding of other areas of learning is necessary. The practicing lawyer's perception that international law has a limited role was refuted. He demonstrated by means of historical evidence that international law is not static, but dynamic. By presenting the trends of development, he assured his students that international law continues to evolve to meet the growing needs of the society of nations, humankind and nature.

Judge Lachs saw history as a “process of accumulating experience, knowledge, and culture, one which spurs the life of nations towards a better and freer future.”<sup>4</sup> The future of international law was tied to the “mutual relationship between yesterday, today and tomorrow . . . : the present built on the lessons of

<sup>2</sup> 79 AJIL 254 (1985).

<sup>3</sup> See generally Manfred Lachs, *Thoughts on Science, Technology and World Law*, 86 AJIL 673 (1992).

<sup>4</sup> Lachs, *supra* note 1, at 26.

the past and leading into the future.”<sup>5</sup> On the fifteen topics covered in his lectures, he made many observations that are as valid today as they were thirteen years ago.

He analyzed law in historical perspective to show that law has continued to mature throughout the ages. He assessed the decisive role of time and space in the evolutionary process that improves and expands the role of international law. He said that “we have to see the sequence of events and analyse them in due proportion.”<sup>6</sup> He denied the claims of those who believe historiography is impossible. He concluded that in history lies the process that has resulted in the formation of complicated legal structures, in which the “role of human conscience and actions becomes ever more important.”<sup>7</sup> He firmly believed that “international law of today is a product of historical development and of a causation chain which has embraced both subjective and objective elements,” and that it “represents a consolidation of what has come to be regarded as proper conduct.”<sup>8</sup> He observed that we live in a stormy and transitional time in which law is “neither perfect nor impotent.”<sup>9</sup> Therefore, he warned, “[l]iving as we are between yesterday and tomorrow, we must be aware of the constant changes and moves of which law is a reflection.”<sup>10</sup> He fought fiercely against the suggestion that international law must yield to the realities of international politics. He tried to strike a balance between the critics and the idealists. In his judgment, international law must be “evaluated by the degree to which it affects the actions of States, their law-making processes, and law-abiding procedures.”<sup>11</sup> Viewed in the light of these factors, he observed, international law has progressed.

The premise of his course was that there are some fundamental concepts that are as old as international law itself, that new areas are constantly being added with the passage of time, and that still-newer areas will have to be added as a necessity of life and progress. The impact of science and technology on man and nature demonstrated that, to meet the challenges and needs of time, international society would have to continue to respond with new international laws and institutions. Judge Lachs saw a trend toward the universalization of international law based on the growing interdependence of nation-states and the need to regulate man’s behavior in areas that go well beyond national borders. He strongly believed that double standards and relativism based on power must give way to the universalization of international law embracing all people and states.

He was well aware that international law must play a major role in alleviating global poverty. He observed that much more is needed than has been achieved by UNCTAD. While he recognized that multinational corporations must help developing countries to make progress, he found the code of conduct for multinational corporations wanting.<sup>12</sup> With regard to the environment, the drastic transformation of the relationship between man and nature (owing to the revolutionary growth in the number of nation-states, changes in the nature of societies, and interdependence) made it imperative for humanity to acknowledge that nature and natural resources are finite.

Manfred Lachs believed that a jurist must not be parochial or myopic. A jurist “must be imaginative and critical, fight against myth and falsehood, have a vision of a coherent law which must rhyme with history and do his utmost to influence

<sup>5</sup> *Id.* at 27.

<sup>7</sup> *Id.*

<sup>9</sup> *Id.* at 259.

<sup>11</sup> *Id.* at 260.

<sup>6</sup> *Id.* at 258.

<sup>8</sup> *Id.*

<sup>10</sup> *Id.*

<sup>12</sup> *Id.* at 102.

events for the betterment of inter-State relations.”<sup>13</sup> Judge Lachs lived and performed exactly by the standards that he encouraged others to follow.

Judge Lachs dominated the scene of international law for the better part of this century. Despite his towering personality, he was as humble as a man can be. In his death the world has lost a tireless crusader who spent his life trying to advance the principles of international law and international justice. Like many of his students, I have lost a great teacher to whom all could look for counsel.

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<sup>13</sup> *Id.* at 260.

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