

IN MEMORIAM

SHABTAI ROSENNE

*Yehuda Z Blum**

‘Shabtai Rosenne was widely regarded as the finest international lawyer of his day’. Thus was he eulogised in *The Times* of London by Dame Rosalyn Higgins, a former president of the International Court of Justice. The eminent international law professor Malcolm Shaw, in his obituary of Rosenne in *The Guardian*, stated in the same vein that Rosenne was ‘arguably the foremost international lawyer of the second half of the 20th century’. His greatness was repeatedly recognised by the American Society of International Law, the most prestigious professional association in the field, by bestowing on him virtually every honour it could award – its Certificate of Merit, its honorary membership and its Manley O Hudson Medal. He was also the first recipient of the prestigious The Hague Prize in International Law in 2004. Such was his stature as *primus inter pares* in international law that for the commemorative gathering held on the 50th anniversary of the International Court of Justice in 1996, Shabtai was chosen as the sole speaker.

His eminence was attributable to a rare combination of academic excellence, rooted not just in his razor-sharp intelligence, his absolute integrity, his vast erudition and his formidable memory which enabled him to retain virtually everything he had ever read and where he had read it, but also in his long and rich practical experience as the first legal adviser to the Israel Foreign Ministry from 1948 to 1967, as Ambassador to the United Nations in New York and Geneva, as a member of the International Law Commission in the years 1962 to 1971 (at which time he made a significant contribution to the drafting of what became the UN Conventions on Consular Relations and on the Law of Treaties), as Israel’s special envoy on delicate missions (such as his mission to Buenos Aires in the wake of Eichmann’s abduction), as representative of Israel at the International Court of Justice, as an Israeli delegate at numerous international conferences, as a member of the International Law Institute, and so on. He took an active part in all three UN Conferences on the Law of the Sea (of 1958, 1960 and 1973–82).

Following his retirement from active government service, Rosenne taught at various prestigious universities in the United States, Great Britain and the Netherlands, as well as at

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Bar-Ilan University in Israel. He gave the general course at The Hague Academy of International Law in 2001. He was also consulted by, or acted as counsel for, a number of foreign governments, including the United States and Japan.

But it was undoubtedly Rosenne's prodigious scholarly production that firmly established his place as the leading international lawyer of his day. He wrote, mostly in English, about virtually every aspect of contemporary international law. His only major work in Hebrew, *The Perplexities of Modern International Law* (Bialik Institute 2012) – evidently conceived as a labour of love for the State of Israel and the Hebrew language, and sadly published only posthumously – is in fact a summary and credo of his lifetime work. It is characteristic of the intellectual alertness of Shabtai, then in his late eighties, that he devoted in the book several pages also to the legal problems of cyberspace. And as a testimony to his devotion to the Jewish people, the concluding chapter of the book deals with the Jewish contribution to the development of international law.

If one is to highlight some of his major publications that secured his place in the world of international law, it is perhaps his brilliant *The Law of Treaties: A Guide to the Legislative History of the Vienna Convention* (Sijthoff 1970), the role that he played as general editor in the preparation of the six volumes of the authoritative *United Nations Convention on the Law of the Sea, 1982: A Commentary* (Nijhoff 1989–2002) and, above all, his monumental four-volume work on *The Law and Practice of the International Court, 1925–2006*, the fourth edition of which was published by Nijhoff in 2006 and which represents the pursuit of a lifetime. One can do no better than quote the words of the then president of the International Court of Justice, Hisashi Owada, in calling for a moment of silence in Rosenne's memory at the public sitting on 11 October 2010:

[Rosenne's] landmark treatise 'The Law and Practice of the International Court', which all of you know, remains an indispensable guide to the role and functioning of the Court, and serves as the first port of call for international lawyers and diplomats alike who are interested in the work of the principal judicial organ of the United Nations. ... Judges themselves not infrequently consult this oeuvre in exercising their judicial duties.

In view of Shabtai's extraordinary international stature, we must admit with some sadness that in Israel his greatness was not generally recognised. True, he was awarded the Israel Prize in 1960; but his domestic fate was that of the proverbial prophet who goes unrecognised in his hometown. This is all the more regrettable as he devoted his entire life to the cause of Zionism and the State of Israel. On his discharge from the Royal Air Force in 1946, he immediately joined the Zionist Office in London at Great Russell Street and, following the November 1947 UN General Assembly resolution, he moved to this country and became a member of the 'Situation Committee' that prepared the institutional and administrative apparatus for the future State of Israel. On its establishment, he was among the founding fathers of the Foreign Ministry and its first legal adviser. From then on he served the state relentlessly until literally his last breath. Having been appointed in July 2010 to the Turkel Commission to investigate the legal aspects of the interception by the Israel Defence Force of the Gaza-bound flotilla, he passed away while working at his home on the Commission's report.

Shabtai paid a high personal price for his Zionist convictions and his loyalty to the State of Israel. There was virtual unanimity, shared by Israel's friends and foes alike and also pointed out in the various obituaries, that it was solely the Israeli nationality of this towering giant that prevented his election to the bench of the World Court.

'Shabtai Rosenne lived and breathed international law', in the words of Stephen Schwebel, yet another former president of the International Court of Justice. While not given to empty small talk, he once confided to me in a private conversation that every morning he was still marvelling at the very existence of a Jewish state and thankful for the privilege of having seen this happen. Never in the course of more than five decades since I first met Shabtai did I ever hear a word of criticism from him of any aspect of Israeli life. And in spite of our long acquaintance and of our many years of close cooperation, he never gave a hint of where he stood politically.

A source of great pride for him was his family – his wife Esther, his sons Yonatan and Daniel and their spouses, his grandchildren and great-grandchildren. 'Did you know', he once asked me in jest, 'that I have become a tribal chieftain?'

On Shabtai's passing Rosalyn Higgins rightly lamented: 'We have lost the intellectual giant of our age.'

חבל על דאבדין ולא משתכחין!