

Hersch Lauterpacht: Fragments for a Portrait

Stephen M. Schwebel

In October 1950, I arrived in Cambridge, encrusted with the salt of a rough Channel crossing. On the very day of my arrival, I called upon Professor Lauterpacht in his tiny study in the Squire Law Library. As I came into his office, Lauterpacht showed out a lean, erect visitor whom he described as ‘Captain Baxter, such a nice, polite man.’ ‘Of the British Army?’ I asked. ‘No, the American.’ Lauterpacht surveyed my bizarre and battered travel wear with an amused eye, asked some questions about my Harvard College background and Cambridge intentions, and invited me to lunch at his home the next weekend. There I met his wife Rachel, who was to shower hospitality upon me to the end of her days, and their son Eli. Eli assured me that the law was not only interesting, but amusing. Perceiving that I was in need of sagacious instruction, the Professor arranged for Eli to be my tutor on his almost weekly visits to Cambridge. While just appointed a Fellow of Trinity College, Eli then was living in London and occupied with the Bar. Nagendra Singh and I were his first pupils. From these encounters sprung three of my life’s deepest friendships, with Professor Hersch Lauterpacht as he then was, with Eli, and with Richard Baxter. My Cambridge experience was further enlivened by Derek Bowett, another of Lauterpacht’s prized students, as Baxter and I became. Bowett has said to me that he never thought of entering academic life until Lauterpacht advised him to do so.

As a member of Trinity College but a graduate student, I could not live in College. I was assigned to ‘digs’ in a boarding house in town, to ‘licensed lodgings’ kept by a typical, which is to say miserly and mean, landlady. I quickly came down with flu and, noticing my absence, Professor Lauterpacht telephoned my digs. Experiencing the antagonistic screech of my landlady, he walked a distance down from the Squire to find out into what sort of circumstances the College had cast me. As he later told me, he went ‘to put the fear of God into her’. Professor Lauterpacht did not find me there because I had been transferred to Addenbrooks Hospital. But when I emerged I found that he had taken the trouble to find me lodgings in a lovely house on Storey’s Way (on which Lord and Lady McNair were later to live), to which I happily moved on payment of a considerable ransom to my landlady. He told me that I could not work well living in such an environment, so squalid a landlady would prejudice my peace of mind. I recount all this by way of illustrating the extraordinary generosity of the man and the care he took of his students.

I remember Lauterpacht best as a teacher. I attended his lectures for undergraduate students of law, which – unlike many Cambridge lectures – were not only well attended, they were packed. The throng of students was attentive. They had to be, because Lauterpacht’s voice was soft and his continental accent marked. But his exposition was pellucid. His lectures were meticulously prepared and delivered; and if the accent was not familiar to English ears, the construction and content of the lectures were compelling.

I recall Lord McNair telling me that when Lauterpacht and his arrestingly beautiful bride arrived in London, Lauterpacht spoke virtually no English. McNair advised that before he could pursue further studies in international law in English, he should learn to speak the language. Lauterpacht reappeared a few weeks later speaking with some fluency. When McNair enquired about the source of the transformation, Lauterpacht replied that he had been sitting unendingly in the cinema.

I took part as well in Lauterpacht’s weekly seminar. That was a stimulating, if daunting, experience. Students such as D.P. O’Connell, Bowett and Baxter shone and shone the brighter in the reflected light of the master’s brilliance. But the occasional dullard could have a hard time. Lauterpacht had little patience with sloth or slipshod preparation. To a platitudinous or impertinent remark, he would reply ‘Is that so?’, and the effect was withering.

Masterly as his lectures and seminars were, Lauterpacht’s writings were more powerful still. He combined in them a breadth of scholarship, a depth of analysis, a reach of legal imagination and an urgent idealism that were unmatched in his time. Their effect was enhanced by a magnificent English style, characteristic not only of his scholarly writings but his judicial opinions (and pleadings; see the British Memorial in the *Anglo-Iranian Oil Company Case*). Lauterpacht was intent on making international law much more than it was, especially in respect of the nascent law of human rights – to whose birth his contribution was so notable – and of the effectiveness of international adjudication. But he brought to that great task legal skills that made him more than a match for the ablest of positivistic opponents.

Lauterpacht’s capacity for work was remarkable, his energy exceptional. An immigrant to England without connections, money or knowledge of spoken English, his intellect and industry were such that in less than fifteen years from the time of his arrival he was appointed, with the patronage of Arnold McNair, to the premier chair of international law in the English-speaking world. He wrote five major monographs, any one of which would have established the reputation of another scholar; produced a succession of editions of Oppenheim’s *International Law*, which largely transformed that great work and entrenched its position as the leading ready

resource of international law in the English language; wrote a stream of searching articles of bold originality; solely and exactly edited the *British Year Book of International Law* (and in that capacity unceasingly sought out new as well as established talent); conceived, cherished and edited the *Annual Digest and Reports of Public International Law Cases* (later and today, *International Law Reports*) covering a period of almost forty years; took a leading part in the work of the International Law Commission in its prime, first as the author of the *Survey* that charted its agenda for decades, later as a member and one of a succession of distinguished British special rapporteurs on the law of treaties; and, in his five years as Judge of the International Court of Justice, wrote separate and dissenting opinions of characteristic acuity and courage. His immense scholarly production was written in almost illegible handwriting, and deciphered and typed by his loyal secretary.

Lauterpacht was dignified in his manner and courtly in his manners. He dressed carefully and quietly. He liked good food – roast duck was his favourite – and perhaps ate too much of it. He laughed a lot, a good joke could bring him to tears. He loved children and gardens – especially the Trinity Fellows Garden and his own garden – and walking. He was devoted to his wife and son, and justifiably proud of them. He had a great capacity for friendship and was the staunchest of friends, the noblest of mentors. He was a great letter-writer. He distrusted aeroplanes but was attached to his brand of pipe tobacco.

Lauterpacht suffered a severe heart attack in 1959, at the age of 62, and died in London on 8 May 1960 while undergoing an operation for cancer. When he left The Hague with no illusions about his prospects, he paid farewell calls on each of his colleagues; and he wrote a number of friends as well, myself among them. As I write, his letter is in my Washington files and not available to me, but I recall the steadiness of his courage and the warmth of his affection. Lauterpacht was a man whose heart and character were as great as his mind.

Wilfred Jenks concluded his address at the funeral of Lauterpacht in words that I cannot match, but share:

Yet exacting as were his standards of scholarship and intellectual integrity, lofty as was his vision of the judicial office, staunch as was his friendship, devoted as was his affection, it is not solely, or perhaps even primarily, as a scholar, judge and friend that he would have wished to be remembered or that we would wish to remember him. He brought to everything he undertook the moral horizon and stature of the great prophets of his race. He leaves with us, as an imperishable bequest to all who inherit his spirit, a sense of moral purpose, of moral earnestness and of moral urgency which represents the supreme need of our troubled age and world. His belief that the State exists for man and not man for the State, that the moral law applies in the same manner to public as to private conduct, that the use of force for the protection of private interests is alien to, whereas the judicial process is an expression of, the moral nature of man, that right is ultimately the only might, and that the protection of human freedom and human dignity are the only legitimate purpose of law and government, was not an academic conviction but a consuming fire – a fire which has consumed.

Hersch Lauterpacht will be remembered in generations to come as one of those who lit a beacon such as will never be extinguished until the human race has learned to do justice and to love mercy and to walk humbly with its God in a righteous commonwealth built on the brotherhood of man.¹

¹ C. Wilfred Jenks, *The British Year Book of International Law 1959* (1960) x-xi.