

BOOK REVIEWS

Visions of World Order. Between State Power and Human Justice, by Julius Stone. Baltimore and London. The Johns Hopkins University Press, 1984, xxviii + 246 pp.

Julius Stone began this work, which was almost his last, with two apt quotations. The first was the frequently quoted passage from Isaac Abrabanel (1508), namely "Your young men shall see visions, and your old men shall dream dreams"; and the second was the extract from "Of Youth and Age" (1612) where Francis Bacon said "Age doth profit rather in the powers of understanding, than in the virtues of the will and affections". Stone dedicated this book to his grandchildren in the hope which we must all share "that their world grows safer and more peaceful than it now appears".

With over thirty books to his credit, many of them written quite recently, Stone can hardly be accused of lack of will in his final years. It is, however, my sad task to have to review this work after the author's death. In it Stone sought to bring together certain broad themes on which he had been working for almost a lifetime, these being principally the sociology of international law and the problem of international justice. This book is in no sense concerned with technical details of international law. It is rather an attempt to explore the possibility of establishing a system of world order which would assure to the world's increasingly large number of inhabitants—the population explosion was one of Stone's major worries—the greatest possible degree of justice.

This lofty aim prompted Stone to devote a chapter to each of three jurists who had in one way or another written on themes which were of particular interest to him, and whom he therefore, not unreasonably, considered to be the leading international jurists of our time. These were C. W. Jenks (various works, but especially *The Common Law of Mankind*, 1958); Myres McDougal (various works, but principally "International Law, Power and Policy: A Contemporary Conception", 82 *Hague Recueil* 137 [1953]); and Richard Falk (various works, but principally "Statecraft in an Era of World Order, Decay and Renewal", Arthur F. Yencken Memorial Lectures, Australian National University [1974]).

In a letter which he wrote to me shortly before his death Stone indicated that, had time and space permitted, he would like to have devoted chapters to other leading international jurists, such as Huber, Verdross, Le Fur, Scelle, Oppenheim, Lauterpacht, Kelsen, H. A. Smith, Alvarez, Corbett, Charles de Visscher and Wolfgang Friedmann. This list in itself provides a guide to Stone's main interests in international law. To recapitulate, he was concerned not so much with technical expositions of the subject as with writers who exhibited some sort of vision about the future of world order. Enthusiasm for these visionaries, and especially for the three selected for particular praise, did not, however, prevent Stone from drawing attention to what he considered to be their shortcomings.

In Stone's view, Jenks was somewhat naive in professing to detect an emerging "common law of mankind", whereas the sociological reality was still confrontations "between States and alliances of States" (p. 19). Stone had the generosity to express the hope that "Wilfred Jenks rather than myself would prove to be 'the better bet'." Comparing Jenks' other major work (*The Prospects of International Adjudication*, 1964) with his own "more somber" work (*Legal Controls of International Conflict*, 1954), Stone nevertheless said that "in the final analysis, my mind still does not go with my heart's desire" (p. 19). In defence of Jenks, it should perhaps be mentioned that, throughout his long and distinguished literary career, he was also an international public servant. In such a situation he was obviously inclined to play down the confrontations between States and alliances of States and to express hopes for future international cooperation which contemporary political reality did not justify.

Stone's criticism of McDougal is somewhat complex, as indeed are McDougal's own writings, enormously influential though the latter have been, especially in the United States. Essentially Stone chides McDougal for too easily transposing ideas "from the municipal to the international sphere" (p. 21) and for "the projection from Western municipal law onto the world stage of the 'goals' of 'human dignity and respect', embracing in these 'power, respect, enlightenment, wealth, well-being, skill, affection, rectitude and sincerity'" (p. 22). When to this Stone adds that "in the sense in which McDougal defines it, on many matters international law probably does not have any general decision-making process yielding effective and authoritative decisions concerning distribution of values" (*ibid.*), there would seem, in Stone's view, to be little of McDougal's complex edifice left; although he commends McDougal for at least attempting "to give an account of international law in terms of its sociological substratum" (p. 20).

Of the three jurists selected for particular distinction, Stone keeps the highest praise for Richard Falk. What particularly excites Stone is Falk's "World Order Models Project" which "might be seen as seeking to bypass State power centers from below by the surge of heightened planetary consciousness" (p. 12). Stone even goes so far as to say that he shares "most of the presuppositions indulged by Falk's view of international law as a potential functional ordering of the planetary human community". This sharing includes the judgment that "international law as a legal ordering of coordinated sovereign States cannot assure the elementary contemporary needs of peaceable existence or, with any degree of certainty, even human survival"; "the skepticism that any mere extension of the range of competence of decision-making elites of the type envisaged by McDougal can remedy this deficiency"; and finally "the melancholy recognition that State entities by their very existence and function tend to prevent the spontaneous emergence, especially across frontiers, of the planetarywide consciousness necessary to support institutions performing essential functions for the planetary community" (p. 136). However, Stone is unable to accept "two further assumptions" of Falk. These are "that State entities will tolerate—or at any rate will not resist—the reductions and transfer of their functions and powers to alternative institutions for performing planetary functions", and that "a sufficient number and range of State entities will be thus tolerant so as to allow the new alternative institutions to consolidate their positions and functions" (p. 137).

On balance, therefore, Stone's outlook in 1984 was as "sombre" — to use his own expression — as it was in 1954 when he wrote *Legal Controls of International Conflict*. But it is no coincidence that both these works received from the American Society of International Law its Award for Pre-eminent Contribution to Creative Scholarship, and that Stone is the only author so far to have received this award on two occasions. Despite the immense proliferation of literature on international law that has taken place since the end of the Second World War, there have been comparatively few works of such vision and depth as those contributed by Julius Stone. But I should add a warning. This work is not easy reading, and, at the risk of appearing somewhat naive, I must confess that I personally found it rather trying to have to wrestle, within a few pages of each other, with complex questions of "planetarywide consciousness" on the one hand and details of warheads, missile-silos and ICBM deployments on the other hand. In conclusion, perhaps I should add, as I am about to retire from a chair of international law, that future students may very well take both these things in their stride. For their sakes I hope so.

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