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Seventh World Conference on Peace through Law Convenes in Washington: Progress Report

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"What do you think of President Ford censuring Mrs. Gandhi? As between two friendly countries, isn't this a gross violation of accepted diplomatic decorum? . . . The Sino-Soviet split indicates that ideological affinity does not produce international harmony. . . . It is possible to carry the equivalent of a thousand books or sixty 100-page newspapers in the breast pocket of a man's suit and read them on a projector. . . . There are few places on earth today where Gerald Ford and Mao Tse-Tung are truly at odds. . . ."
Conversations Overheard in the Lobby and
Meeting Rooms of the Sheraton-Park Hotel During
Seventh World Peace Through Law Conference in Washington, 1975

"World Order is inevitable before it became possible" was but one of the significant pronouncements made during the historic, precedent-making meeting in October, 1975, of the World Peace Through Law Conference. The convocation of 4,000 lawyers from more than 120 countries from around the world was the largest gathering of international lawyers ever assembled. For the first time in some thirty years there was no major war being waged anywhere in the world. Minor conflicts there were; Spain, Portugal and Lebanon were in a turbulent state. However, the lawyers assembled could find a modicum of satisfaction that there might be some connection between the stability in the world and the fact that since the Athens World Conference (1963) the ongoing commitment of thousands of lawyers in scores of countries to World Order was indeed bearing fruit.

The conference opened with greetings from Chief Justice Warren Burger of the United States Supreme Court, who made a very telling analogy between the United States in 1775, then a congeries of thirteen states, each with a different view as to what was best for it, and the world in 1975 where more than 140 sovereign states take the same view of their status. He urged that the same

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common interests which brought the original colonies into an effective working arrangement—a submergence of their sovereign powers—could well be effective on a world scale. Manfred Lachs, of Poland, President of the International Court of Justice, emphasized how the Judges' interpretation of the law strengthened human society; judges and lawyers should be worthy of this great function. T. O. Elias, former Chief Justice of Nigeria, reminded us that Napoleon assured his colleagues that he would be remembered by mankind for his Civil Code rather than his victories in war. Lawrence E. Walsh, President of the ABA, indicated how the interest in international law was progressing among American lawyers. The ABA's section on international law is its eleventh largest section; the State Bar Association of Colorado (as land-locked a state as one could find) has recently established an International Law Section. Mr. Walsh underlined the fact that the primary problems of the world—inflation, energy, food and population—cannot be solved by individual states, working alone.

Charles S. Rhyne, whose brainchild the World Peace Through Law Center is, warmly welcomed the delegates to the conference. He urged a more frequent resort to the International Court of Justice, expanding its jurisdiction and permitting individuals to have standing to sue for redress of grievances before that body. Mr. Rhyne pointed out that political questions can often be resolved once the basic law question, implicit therein, has been adjudicated.[1] More international law has been created in the last 25 years, asserted Mr. Rhyne, than in all previous history of the world. The reason is quite clear. The problems of the various nations are so inextricably intertwined that they cannot be resolved on a national basis. Only where the rule of law exists, he announced in his peroration, can people travel and communicate freely throughout the world.

During the course of the next four days, some twenty seminars took place chaired and manned by numerous outstanding judges and lawyers in the particular areas involved. "Nuclear Assistance Agreements: The Adequacy of Safeguards," "Law and Reform of The International Monetary System," "International Legal Protection of Refugees: Principles of Asylum," "The Law of the Sea, After Geneva," are some of the provocative titles and subjects which played to standing room only, in most cases, and brought forth some cogent and animated discussions during the discussion period. All of the speakers were of outstanding ability; they were chosen to represent the views of both North and South, as well as East and West. Among the great wealth of talent, some of the speakers were of international acclaim: Dr. Oscar Schachter, Deputy Executive Director, UNITAR, a noted expert on the United Naitons and its operation; Honorable Philip C. Jessup, formerly Judge, International Court of Justice; Tokusuke Kitagawa, Professor of Law at Tokyo University and one of the outstanding experts on the law of developing nations; Dr. Martin Domke,

[1] *See U.N. Fact-Finding as a Means of Settling Disputes,* 9 VA. JOURNAL OF INT. LAW 154 (1969).

internationally renowned as arbitrator for the American Arbitration Association; Samuel Pisar, Esq., international lawyer and author of "Commerce and Co-Existence," who has done extensive legal negotiations between Russia and American corporations and Francis Wolf, legal advisor to the International Labor Organization.

There was such a plethora of talent available, the topics were so germane to the problems of world order and the seminars fielded such talented spokesmen that one was hard put to make a choice among many. The panel discussing "Efforts To Expand the Body of International Law" urged increased acceptance of treaties and more resort to the International Court of Justice. The speakers pointed out how difficult it was to obtain acceptance of international treaties. Only a very few nations had acceded to the "Declaration of Human Rights." Since the World Peace Through Law Center was in touch with so many lawyers throughout the world, it was felt that they, through their bar associations and other channels, could urge a more open approach to the acceptance of international treaties. One way of expediting adherence to international treaties would be to have the United Nations or some other international organization index all multi-national treaties and make them readily available. Philip Jessup urged that there should be more recourse to the International Court of Justice for advisory opinions as a method of expanding international law. He felt that individuals should have access to the International Court whenever they were overwhelmed by uncontrolled power; this, he urged, is indispensable for the common good of mankind. If the court were enabled to operate in various parts of the world, as needed, it would become more useful and accessible to the world citizenry in helping to resolve their legal problems. Jessup urges that the ICJ could give advisory opinions on a question of fact. Thus, in the *Mayaquez* case, the question of whether the vessel was in territorial waters was a question of fact.

Another outstanding program, among the many offered, was titled "International Trade: The Role of International Companies In The International Community." The question explored here was whether multinational enterprises (MNE) are selfish and inimical to the best interests of the host country[2] or whether they have been helpful, as Sears Roebuck has, by making a sizeable investment and bringing in a host of small to medium sized suppliers and service firms. In some cases, the MNEs have financed these new firms.[3] Hian Tzu Wang, Esq. of the United Nations explained that there was no international machinery to deal with the misfeasance of these multi-national behemoths; they owe no fealty to any principle other than to make profits for their stockholders and management. The speaker urged that there was no greater challenge today for lawyers and professors than to draft a Code of Conduct for trans-national

[2]BARNET and MUILER GLOBAL REACH, Simon & Schuster (1974).

[3]Mihaly, *The Multinational Corporation and Its Political Environment: Change and Survival* in SETHI & HOLTON, eds., MANAGEMENT OF THE MULTI-NATIONALS, The Free Press, New York, 1974, p. 35.

corporations. Professor Martin Domke emphasized the fact that businessmen want their problems solved by rules that are applied universally. More and more contracts are being signed with governments or with government-controlled agencies (*i.e.* gain export entities). He felt that most governments had not yet come around to the view that they would yield their sovereign immunity; only when MNEs submit their controversies to a panel of experts can we obtain any uniformity in the solution of international business problems.

Arthur Loke Yat Kuen, a lawyer from Singapore, gave the view of the MNEs from the vantage point of his native city, which from its international perspective, looked at the entire world as a market place. He stated that Singapore, as a global city, would subscribe to a Code of Conduct that would be best for Asia. He showed how versatile and resilient the city was; as the overspill from Japan for the need of ship repair facilities developed, Singapore geared up to take advantage of this opportunity. The city built up a substantial chemical business because oil refineries were nearby. Even the local labor unions agreed that MNEs should be warmly welcomed.

Samuel Pisar, in discussing the problems of MNEs, believed that the ground rules on which private and state enterprises did business should be re-examined. East and West must realize that national self-sufficiency went out with the 19th century. Countries have to face common dangers and have common needs. Collaboration is the order of the day. In his view it would have been preferable for the Aswan Dam to be developed as a joint venture between Russia and the United States, that aid to India should be handled, again, as a joint venture by these two countries rather than engaging in an ideological conflict in this area. Pisar indicated how creativity could circumvent some of the hide-bound rules which still trammel international trade. In Russia, it is not possible for a foreign corporation to own an equity in a Russian enterprise. However, it is possible for a foreign corporation to build a plant in the East, and lease it to the particular government involved on a turnkey operation. The foreign capital is repaid by way of the lease payments, and at the end of the lease, the property will be turned over to a local lessee. The foreign law and philosophy are satisfied with this strategem. If the law does not permit what is a business-like solution to a problem, one must employ pragmatic, euphemistic devices to accomplish a business purpose. Pisar praised the common law system as giving free play to one's inventive imagination; further, we have developed a judiciary of the first order to aid this original development in the law.

The topic "Approaches To International Terrorism" was one of the most relevant in the entire schedule of meetings. Dr. Eric Suy, Legal Counsel of the United Nations, observed that the subject was a dead issue at the United Nations. Although resolutions were introduced in the United Nations (1972) after the Munich murders, the measures ran into opposition in the General Assembly. The African bloc, he said, was concerned lest any promulgations against international

violence might inhibit movements toward national liberation. But the speaker felt that although international terrorism will remain on the agenda of the United Nations there will be no action until decolonization has proceeded further and the Middle Eastern problems have been settled. Medhat Samy Lofty, of the Egyptian Ministry of Justice, made a distinction between legitimate and illegitimate use of violence. He claimed that misery, desperation, unstable conditions imposed on people, motivated radical efforts to make changes. One must, he believed, respect the inalienable rights of people to end colonial and foreign domination. Professor Kerry L. Milte of Australia emphasized that the whole problem of international terrorism should be depoliticized. The terrorists can now use the whole world as a stage (action on TV, in living color, on prime time). First of all, terrorism should be defined and a decision made as to whether the motivation of the terrorist is relevant. The speaker urged that an International Court of Criminal Justice be established either as a separate court or as an extention of the International Court of Justice. Then terrorism could be removed from the realm of power politics and sanctions could be applied against states contenancing terrorist activities within their borders.

Aron Broches, Vice-President and General Counsel of the International Bank for Reconstruction and Development presided at the seminar on the "Charter of Economic Rights and Duties of States." Inasmuch as the 1951 United Nations Decade of Development proved to be a failure, the Charter of Economic Rights and Duties of 1972 was adopted to achieve some of the goals which had eluded us. One of the most crucial problems in the world, as was pointed out, was the glaring discrepancy between the various segments of the globe. There was more of a per capita increase of income in the United States in one year than has occurred in India in a century. The speaker pointed out that the establishment of justice, human dignity and change are desiderata that can be effectuated by progressive developments in international law. The pace of improvement must be accelerated; and Third World inhabitants must not lose hope and decide that the game was unfairly tilted against them. Professor Richard M. Gardner of Columbia was one of the stellar attractions on the seminar on the "Utility of the United Nations System." He pointed out how the United Nations acted as a political clearing house of information for the nations of the world. Although the past thirty years had not been peaceful, practically every important event that had occurred in the world within that time had been connected with the United Nations.[4] The peace-keeping efforts of the United Nations in the Congo, Cyprus and Sinai had been accomplished with an outlay of less than $1 billion dollars. The United Nations sponsored the Stockholm Conference on the Environment (1974) which mobilized the people of the world to re-orient their thinking about

[4]Except Vietnam and the Berlin Blockade.

this crucial problem. The United Nations often helps governments do things that they cannot accomplish by themselves. Gardner was optimistic about the future effectiveness and viability of the United Nations; he pointed out that Russia is now contributing its share of the costs of the Sinai peace-keeping forces. He lamented the fact that although some forty developing countries are working on the development of nuclear reactors as energy sources, there is no United Nations agency or other organization in the international community searching for future energy sources.[5] Lord Carradon was quoted to the effect that there was nothing wrong with the United Nations except its members.

Maurice D. Copithorne, Director General of the Bureau of Legal Affairs in Canada, saw the beginnings of a new body of international law as the result of the United Nations activity. The difficulty in creating such a body, he asserted, was that countries have different cultural resources and national diversity which contribute to international non-conformity. He did feel, however, that the body of international law, as it developed, could be adapted to various and diverse cultures. Copithorne thought that substantial progress had been made in the 7th Session of the United Nations on the economics of development; the serious discussion disclosed that economic issues were more important than Israel and South Africa. He made two cogent suggestions, among others:

1. Any government voting for a United Nations resolution would be held accountable therefor.

2. The United Nations should be organized into smaller groups of fifteen to twenty-one states. Regional meetings should be held to try to put across any changes in policy. After the small groups had been persuaded, the program could be more easily promulgated on the international stage.

The climax of the program, as it was in Belgrade, was the presentation of a Demonstration Trial, "The Economic Measures Case," which was sponsored by the World Association of Judges. The tribunal consisted of seven judges from various national Supreme Courts. Chesterfield Smith, Past-President of the ABA, appeared as one of the counsel in the case, as did lawyers from Israel, Egypt, Italy and Nigeria. The issue selected was of immediate significance: The obligation of a sovereign nation to share its natural wealth with the rest of the world, and the legal implications of its refusal so to do. Once again, the trial indicated that judges and lawyers of various legal and cultural backgrounds could work together in the legal arena (as they are doing so notably in the scientific and medical fields) to create a harmonious and reciprocal interchange of legal concepts.

There were other bonuses, as in the past, which awaited those in attendance at

[5]The International Atomic Energy Agency statute is restricted to atomic energy, and does not embrace thermal or other potential sources of energy.

this splendid conference. During the luncheon breaks between the seminars one was privileged to hear such outstanding spokesmen as Sir Philip-Noel Baker, Nobel Laureate of England, who made such an impact at his last appearance at the Belgrade conference; Bernard Richland, Corporation Counsel of the city of New York and William E. Simon, Secretary of the Treasury. The work papers for the various seminars, prepared by the discussants, was, as in the past, one of the more worthwhile and permanent parts of the entire program. The spirit of comraderie and good fellowship which prevaded was quite noticeable and most welcome. That two countries may not see eye-to-eye on a particular legal problem does not mean that lawyers from those countries must also have their teeth set on edge. A warming experience to illustrate this point occurred in one of the sessions. A resolution was being debated on the question of whether violence in the context of the attempt to obtain repossession of one's homeland was justifiable. A discussion ensued as to the proper wording of the resolution; as can be readily imagined, there were two diametrically opposed views of the subject among the lawyers in the audience. A distinguished Pakistani lawyer rose and stated that no one had any inalienable rights; they were a matter of time and circumstance. He, as a Pakistani, recognized that though he had had to leave his home some years before and now resided at some distance, it was not possible for him, after a lapse of time, to take the law into his own hands and forcibly attempt to repossess himself of his former estate. Over a period of time, as can be seen, the law, as a healing art, brings an awareness that negotiation and compromise, both sinews of the legal apparatus, are the inevitable ingredients of world order.

It is impossible, in the short compass of these paragraphs, to set out all of the excellent programs that were available for those who would but heed. The session marked the thirtieth anniversary of the establishment of the United Nations in 1945. It is widely acknowledged that whatever shortcomings the United Nations has, no better vehicle is presently available for bringing the nations of the world together to solve the horrendous problems now confronting them. Patrick Daniel Moynihan, the U.S. Ambassador to the United Nations, recently told this story, appropriate, it is suggested, in context to both the United Nations and the concept of World Peace Through Law:

Adam and Eve were still living in the Garden of Eden as the scene opens. It appeared to Eve that Adam, somehow had become rather abstracted of late, his mind seemed to be wandering far off. "Adam," Eve said, tentatively, gazing at him with sad eyes, "is there someone else?"

A sensitive critic of the World Peace Through Law movement rises to ask the following pertinent questions: "With Athens, Washington, Geneva, Bangkok, Belgrade, Abidjan and now Washington behind us, has this effort really contributed anything at all to the preservation of international peace? Has the organization even partially achieved President Charles Rhyne's main objectives

when he started it in 1957? Is it not just another occasion and a meeting place for lawyers from many countries to get together and listen to papers on a variety of subjects?"

There are at least two significant reasons, in the present writer's view, why this effort has made such strides in the few years of its existence and why it has such potential. In the context of law as a healing art, who better than lawyers can create the social cement which will bring man and man together? If the law is a learned profession, pursued in the spirit of public service, what more significant contribution can lawyers make than to help ameliorate the diversive factors tearing the world apart? Everywhere we see the problem of local loyalties—loyalty to a union, to an ethnic group, to a nationalist ideology which may not have any validity in the last quarter of the Twentieth Century. What we need is for man to recognize his larger and wider responsibilities in a world which must be more closely joined if we are to survive the problems that plague us all. Law is the underpinning, the infra-structure, which can help substitute for a narrow and parochial view a *Weltanshauung* which makes all mankind members of a peoplehood—separated by distance, color and language, but still closely related as planetary men. The problems afflicting us all—energy, food, over-population, fast dwindling resources, will have to be solved on a mutual and unselfish basis.

There is another important reason why the World Peace Through Law effort must continue to grow in influence and prestige. It poses a stark challenge to lawyers and the organized bar throughout the world. What better way to lift one's sights from the local and pedestrian to matters of worldwide impact? Whether Farmer A gets Black acre from Farmer B, whether X corporation redeemed its stock at a time when it legally should have first protected its creditors, whether bank Z's loan is or is not properly secured under the Uniform Commercial Code, are truly matters which *sub specie aeternatatis* are not of great moment. The fact that lawyers, as opinion makers, legislators, mayors and senators can meet their opposite numbers from Beirut and Boston, discuss matters of great pith and moment and return home with some new views and original ideas concerning world order has great potential. Here is what Dean Maxwell Cohen of McGill suggested as the preamble to the resolutions of the Washington World Through Through Law Conference:

> Mankind stands at the vector of multiple crossroads. The forces, the paths, come from many directions: from war, pestilence and deprivation in one direction, from economic growth and unshared progress in another . . . [B]etween the degrees of international economic cooperation already well established among many states, and through the multi-national enterprise as an instrument of the new trans-national world of transactions, men and states are coming to better understand how to manage a common global economy and 'society', and a common global environment."

The lawyers of the world, organized in this World Peace Through Law effort, can have a substantial influence on the path man chooses at this crossroad.