

IN MEMORIAM

SHABTAI ROSENNE (1917–2010)

*By Stephen M. Schwebel**

Shabtai Rosenne lived and breathed international law. While on leave from the Royal Air Force in 1944, he visited an old friend working in the legal bookshop of Sweet and Maxwell on Chancery Lane and asked what was new. The friend produced Manley O. Hudson's revised classic, *The Permanent Court of International Justice, 1920–1942*. As Rosenne explained years later, "[A] copy had somehow got through the Battle of the Atlantic and found its way to war-torn London. I was intrigued by this book . . . and started studying more closely the work of the Court."¹ With the encouragement of Judge Hudson and Professor Hersch Lauterpacht, Rosenne thereafter devoted a great part of a long life to that very study. The result was the production and publication of the most extensive and intensive analyses of the International Court ever written.

Rosenne was born in London on November 24, 1917. In 1938 he received an LLB from the University of London, studying naval law. During World War II, Rosenne served in the Royal Air Force, beginning in 1940. After his discharge in 1946, he worked in the Political Department of the Jewish Agency, first in London, then in Jerusalem. As the end of the British Mandate in Palestine approached, he was appointed to the Situation Commission, which was charged with creating the administrative apparatus of the future State of Israel (including, inter alia, legislation, the skeleton ministries, and the judiciary). Upon the declaration of the state, Rosenne became a founding member influential in the formation of the Israeli Foreign Ministry, serving as its legal adviser from 1948 to 1967. He was a member of the Israeli delegation that negotiated the 1949 Armistice Agreements and was a regular presence on the Israeli delegation to the United Nations General Assembly, which he first attended at its third session in 1948, returning each year from 1957 through 1983 with few exceptions.

During his tenure as legal adviser, in 1959, Rosenne found time to earn a PhD from the Hebrew University of Jerusalem. Appointed to the rank of ambassador in 1960, he served as deputy permanent representative of Israel to the United Nations during the period 1967–1971, and as Israel's permanent representative to the United Nations and other international organizations in Geneva from 1971 to 1974, when he was appointed ambassador-at-large. His diplomatic skills were fully and successfully put to the test in 1960, when the Israeli government sent him to mollify the Argentine authorities in response to their complaint before the

* Of the Board of Editors.

¹ SHABTAI ROSENNE, *Preface* to *THE LAW AND PRACTICE OF THE INTERNATIONAL COURT, 1920–1996*, at xxiv (3d ed. 1997).

Security Council and the outcry by the international community at the Mossad's spirited of Adolf Eichmann from Buenos Aires to Jerusalem to stand trial for war crimes.

Rosenne took an active part in the United Nations Conferences on the Law of the Sea of 1958, 1960, and 1973–1982, and the subsequent Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks of 1995. He was an influential member of the International Law Commission from 1962 to 1971, at a time when it drafted the Vienna Conventions on the Law of Treaties and on Consular Relations. In June 2010, he was appointed to the Turkel Commission of Inquiry into the Gaza flotilla raid and was at home deeply engaged in the commission's work at the time of his death.

After leaving public service, Rosenne became a member of the faculty of Bar Ilan University. He served as Goodhart Professor in Legal Science at Cambridge University, van Zuylen Professor at the University of Utrecht, and visiting professor of international law at the University of Amsterdam and the University of Virginia. At Virginia, he played a principal part, as general editor, in the preparation of the six volumes of authoritative commentaries on the 1982 United Nations Convention on the Law of the Sea. He was consulted by, or acted as counsel for, various governments in international litigation, especially proceedings of the International Court of Justice.

Rosenne's scholarly production was prodigious. He wrote some twenty books and monographs, and many articles and book reviews, not just on the International Court of Justice, but on the law of treaties, the law of the sea, state responsibility, international arbitration, the Hague Peace Conferences, and the codification of international law. His major contribution, *The Law and Practice of the International Court, 1920–2005*, was the pursuit of a lifetime, its first edition having been published in 1965, and the fourth in 2006.

That great four-volume work is a handbook on the Court. It comprehensively and acutely sets out the history of the Court, its political context, and its functioning. It is the first and sometimes last source consulted by counsel before the Court, the Registry of the Court, and judges of the Court, as was pointed out by judge and president of the Court Hisashi Owada in calling for a moment of silence in Rosenne's memory at the public sitting of October 11, 2010:

[H]is 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 this 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. . . . [J]udges themselves not infrequently consult this oeuvre in exercising their judicial duties.²

A whole volume analyzes problems of the Court's jurisdiction, perhaps the most intricate and complex of any court at any time in judicial history. Another volume treats procedure in the Court in depth. Rosenne's book differs in focus from other leading works on the Court, such as Fitzmaurice's and Thirlway's discerning essays on the Court's case law in the *British Yearbook*, and Lauterpacht's seminal *The Development of International Law by the International Court* on the Court's influence on the content of international law. Nevertheless, he brings many cases to bear in the course of the work, and while essentially a treatise on the institution

² Territorial and Maritime Dispute (Nicar. v. Colom.), Application to Intervene, Transcript of ICJ Public Sitting at 10, CR 2010/12 (Oct. 11, 2010) (uncorrected).

of the Court, the book necessarily and perceptively treats not only the structure and functioning of the Court but also its impact on international law and relations. Even though Rosenne was ideologically committed to international adjudication, he does not overstate or overrate that impact.

Rosenne was a man of committed ideals, assertive convictions, and cherished friendships. He justifiably received many honors. A long-time member of the American Society of International Law and contributor to this *Journal*,³ he received virtually every honor the Society could bestow on him: the Certificate of Merit in 1968 for *The Law and Practice of the International Court*, honorary membership in 1976, and the Manley O. Hudson Medal in 1999. He was the first recipient, in 2004, of The Hague Prize in International Law. He was also an active member of the Institut de droit international.

In 1940 Rosenne married Esther Schultz, who was his great support for seventy years. Rosenne died in Jerusalem shortly before he would have turned 93. Esther and two sons survive him.

³ See, for example, Shabtai Rosenne, *Sir Hersch Lauterpacht's Concept of the Task of the International Judge*, 55 AJIL 825 (1961); Shabtai Rosenne, *The Depositary of International Treaties*, 61 AJIL 923 (1967); Shabtai Rosenne, *More on the Depositary of International Treaties*, 64 AJIL 838 (1970); Shabtai Rosenne, *Settlement of Fisheries Disputes in the Exclusive Economic Zone*, 73 AJIL 89 (1979); Shabtai Rosenne, *Establishing the International Tribunal for the Law of the Sea*, 89 AJIL 806 (1995); Shabtai Rosenne, *When Is a Final Clause Not a Final Clause?* 98 AJIL 546 (2004); as well as several reports on elections, procedures, and publications of the International Court of Justice.