

IN MEMORIAM

Wolfgang Gaston Friedmann
(1907 – 1972) *

On 20th September 1972 Dr. Wolfgang G. Friedmann, professor of international law and director of international legal research at Columbia University, was robbed and stabbed to death three blocks from the Columbia campus. This sad news rapidly spread all over the world, and caused a heavy shock to those who had got to know this outstanding lawyer from his publications, and above all to those who, like the present writer, had the privilege to become his friend through personal contacts with his charming and inspiring personality.

Wolfgang Gaston Friedmann was born in Berlin on 25th January 1907. As a result of the rise of the nazi's in Germany, he emigrated to England in the summer of 1933, where he was naturalized as a United Kingdom citizen in March 1939. He received the degree of Master of Laws in 1936 and the Doctor of Laws degree in 1947 from the University of London.

After various other functions and assignments, partly due to the extraordinary circumstances prevailing during the war period, his career made a turn to the academic world. This appears *inter alia* from his lecturership at University College, London, and his subsequent appointments as professor of (public) law at the Universities of Melbourne (Australia) and Toronto (Canada) successively. In 1955 Professor Friedmann was appointed by Columbia University professor of law and "Director of International Legal Research", functions which he continued to exercise until his last day.

A glance at the impressive list of Professor Friedmann's publications ¹ shows that his interest and scholarship was many-sided, reaching into almost every field of legal science. Having taught conflicts of law at the very first stage of his academic career, his interest was also attracted by the philosophy of law, as is evidenced by his well-known book "Legal Theory" of which the first edition was published in London, 1947. ²

This interest in the theoretical aspects of the law did not tempt him, however, to lose touch with the living realities of law. On the contrary, his inspiring and thought-provoking book "Law in a Changing Society" ³ is there to remind

* For more extensive biographical notes the reader is referred to 10 *Columbia Journal of Transnational Law*, No. 1 (Spring 1971) pp. 2-32. This was a special issue dedicated to Professor Friedmann to honour him for his merits for that Journal. Further, see "In Memoriam" by Hazard, Henkin and Lissitzyn, 67 *Am Journal of Int'l Law* (1973), 102 and also a necrology by R.J. Dupuy, *Revue Générale de Droit International Public*, October-December 1972, No. 4, p. 11.

1. For a selective bibliography, see the Friedmann issue of the *Columbia Journal of Transnational Law*, referred to in the preceding note, at p. 32.

2. The 5th, and last, edition appeared in 1967. A French translation of the 4th edition was published in 1965, under the title *Théorie Générale du Droit*.

3. A second edition of this book appeared in 1972 (Penguin Books). A German translation was published in 1969 under the title "Recht und sozialer Wandel".

us of his interest for the interaction between the development of the law and the rapid changes in modern society. Part IV of that book, entitled "The Changing Scope of International Law", already foreshadowed *The Changing Structure of International Law*, which appeared in 1964.⁴

In the latter book he portrays an imposing picture of the structural changes in international relations in our time requiring a reorientation of basic concepts of international law.

According to the author, relevant factors in this respect are the increasing dilution of the homogeneity of values derived from the common Western European background, a phenomenon caused both by the emergence of many new states from colonial status and by "the division of the family of nations according to political ideology". Among other equally relevant factors, Friedmann attached much significance to changing economic relations, such as the increasing state control over economic activities and the ensuing internationalisation of economic interests.

In his eminent and sympathetic necrology, published in *Revue Générale de Droit International Public* (October-December 1972, No. 4), Professor R.J. Dupuy has rightly emphasized Friedmann's specific interest in international economic law, and his pioneer work in the field of what Friedmann himself labels as the "international economic development law" *i.e.*, a body of principles determining the legal relationships of developing countries with foreign investors, and with national or international public development aid institutions.⁵

Although Friedmann can certainly not be said to be over-optimistic as to the survival of human civilization, his hopes are set on the development of the "universal international law of co-operation", *i.e.* the body of legal rules regulating an ever expanding range of universal human concerns, extending from matters of international security to questions of international communication, health and welfare.

What makes Friedmann really one of the greatest international lawyers of our time, is not only his intellectual and scholarly genius but above all his firm character and intellectual honesty and courage. As an illustration of these characteristics his short article: "Law and Politics in the Vietnamese War: A Comment." might be mentioned. This Comment is a reaction to earlier articles, written by other authors, on the legal aspects of the Vietnam conflict, published in the *American Journal of International Law* in 1966 and 1967.⁶ What is important here is not so much the stand which he himself takes with regard to the lawfulness of that intervention as his fierce protest against the *methods* applied by some American lawyers in justification of the American intervention in Viet-Nam. Here he comes out as a fervent champion of "objective scholarship", a principle implying that scholars writing on questions of this kind should at least make use of the arguments of *both* sides and should refrain from a biased

4. A Spanish version appeared in 1967: *La Nueva Estructura del Derecho Internacional*.

5. See *inter alia*, *The Changing Structure of International Law*, p. 374.

6. The "Comment" itself appeared in 61 *Am. Journal of Int'l Law* (1967) 776.

selection of the relevant facts. Nor should they, by the incantation of rhetoric phrases such as “minimum world public order” and “fundamental community prescriptions”, “cloak the nakedness of the political and ideological struggle”.

From these, and other, publications there emerges the portrait of a good, morally committed, and brave person, raising his banners in defence of the international legal order and its progressive development, a legal order which should expand its domain to include such matters as the maintenance of international peace and security, the protection of the individual against powerful states or corporations and many other social and ethical values which are indispensable for the survival of human civilization.

May his work be a source of encouragement and inspiration for all students of international law, both of the present and of future generations, irrespective of their national origin.

H.F. van Panhuys.

COLLOQUIUM ON NAMIBIA

Leyden, November 4, 1972

Introduction

A Colloquium, organised by the Netherlands Society for the United Nations ("VIRO") and the Netherlands Society for International Law, was held in the "Van Eysinga Huis", Leyden, on Saturday, November 4, 1972. Subject of discussion was the advisory opinion of the International Court of Justice on "the legal consequences for States of the continued presence of South Africa in Namibia notwithstanding Security Council resolution 276 (1970)", in continuation of the Colloquium, held by the Cornelis van Vollenhovenstichting in Leyden, on December 17, 1966, on the International Court's Judgment on Namibia (South-West Africa) of July, 18, 1966.

The Colloquium was introduced by Professor M.J. Lachs, now President of the International Court of Justice, who lectured on "the main legal issues" on which the Court had to make a pronouncement.

The following topics were dealt with:

- transfer of powers from the League of Nations to the United Nations
- interpretation of an international instrument
- Jurisdiction of the International Court of Justice over the binding force of decisions of U.N. organs
- position of the U.N. in case of non-fulfilment of an international obligation
- legal significance of Security Council and General Assembly resolutions
- the notions "lawful" and "unlawful" in international law
- consequences of unlawfulness for U.N. Members and non-members.

Next speakers were Dr. P.H. Houben, Prof. Mr. P.H. Kooijmans and Prof. Mr. W. Riphagen.

A lively general discussion, led by VIRO's chairman Mr. H.E. Scheffer, in the morning-session, and by Professor Kooijmans, chairman of the Netherlands Society for International Law, in the afternoon, included an explanation by Prof. Mr. B.V.A. Röling of his comments on the Advisory Opinion in "Ars Aqi" XXI (7), 1972, p. 380.

The text of the Court's Advisory Opinion, a short survey of the "dissenting opinions", Professor Röling's comments and a list of literature had been sent to the participants beforehand.

The Editors have received the elaborate texts of three lectures given at this Colloquium. They are printed below in the order in which they were given. They express the personal views of their authors.