

MEMORIAL SERVICE FOR SIR ELIHU LAUTERPACHT, CBE, QC, LLD

14 October 2017

I first met Eli Lauterpacht in the spring of 1978. He had just returned from three years in Canberra as Legal Adviser to the Australian Foreign Ministry and – though I did not know it – had turned down an offer to become General Counsel to the International Monetary Fund. He had asked me to call on him at his home in Herschel Road to discuss working with him on the *International Law Reports*, the series he had edited since his father's death in 1960 and which he was determined to revive after it had languished during his time in Australia. I accepted his invitation with alacrity and thus began an association of nearly forty years which was the source – at least for me – of the greatest possible pleasure, both personal and professional.

Eli was born in July 1928, the only child of Hersch and Rachel Lauterpacht. Rachel was an accomplished pianist; Hersch was the greatest international lawyer of his generation. Eli grew up in a home in which international law, politics and ideas were always being talked about and in which he met many of the great names of the legal and political world.

Some young children are intimidated by that kind of exposure. Eli was not. After four years at school in America during the War, he returned to England in 1944 and, arriving at Liverpool docks, he telephoned his father's friend Lord McNair – then Vice-Chancellor of Liverpool University and later to become President of the International Court of Justice –

because Eli considered McNair would want to know he was back in the country. Sadly, history does not record McNair's reaction to this thoughtful gesture by a sixteen year old with a strong Bronx accent. An accent, incidentally, which so horrified his father that he made Eli spend hours listening to the BBC so he could speak proper English again.

It certainly worked. Eli had a magnificent speaking voice and that, together with his stylish advocacy, helped to make him a great success as a barrister and a teacher.

After obtaining first class honours and the Whewell scholarship in the LLB, his career advanced rapidly. He was elected a fellow of Trinity in 1953 and appointed a lecturer in the Law Faculty shortly afterwards. Called to the Bar by Gray's Inn, he swiftly developed an impressive practice, becoming a Queen's Counsel in 1970. Other honours followed: CBE in 1989 and a knighthood in 1998 and, from Cambridge, appointment as Reader and later Honorary Professor, as well as the award of the LLD.

Even such a brief recital of his achievements shows that he scaled the heights of both his chosen careers. But it risks suggesting an effortless and conventional progress. Effortless it certainly was not. Well into his sixties, Eli followed a punishing schedule that would have exhausted those half his age. On more than one occasion I recall keeping an appointment with him at nine or ten in the morning and finding him in his dressing gown behind a table covered with papers having worked through the night. A little dishevelled perhaps but still a great deal more focussed and cheerful than I would have been in those circumstances.

Nor was he in any way conventional. He was no conventional academic. He never undertook doctoral studies and never published the substantial monograph required of today's academics. Yet reading the works he did write – his pamphlet on Jerusalem, his lectures on the administration of justice and international legal procedure, his magisterial biography of his father and his many articles, one cannot help being struck by the range and originality of his ideas. And in marked contrast to what has now become fashionable, he never disdained teaching as a peripheral chore but delighted in the relationships he built up over the years with his students, scores of whom kept in touch with him afterwards. They included four presidents, and many more judges, of the ICJ, at least one prime minister, a European Commissioner and many others.

Nor could he ever have been mistaken for a conventional practitioner. Barristers who also held university posts were frequently regarded with scepticism at one time and appearances in international courts were considered an exotic sideline. Eli, however, was an exceptional advocate before any tribunal. Before the International Court of Justice, he had a career lasting sixty years from his first appearance – for Liechtenstein against Guatemala – in 1953 to his swan song representing Timor Leste in a case against Australia in 2014. It is a record which has never been matched and is likely never to be matched.

The range of his practice was remarkable. Boundaries on four continents. Negotiating the great Law of the Sea Convention. Helping to draft the 1954 Iran Oil Consortium agreement. Appearing in some of the greatest international law cases ever heard in the English courts. Yet he was just as effective appearing at a planning inquiry in a portakabin in Cumbria as he was in the House of Lords or the ICJ.

For Eli was a man who brimmed with ideas and enthusiasm about everything he did. And one who had seemingly unlimited reserves of energy which enabled him to pursue more than one career, and many different interests, at the same time.

It is not easy today to appreciate quite how depressed Cambridge was in the late 1970's. Several years of a freeze on pay and appointments, buildings frequently in need of repairs for which there was no budget, a bureaucracy resistant to innovation and quicker to see problems than opportunities had left the university in a poor state. And nowhere was this demoralisation more apparent than in the Law Faculty with a library housed in magnificent but not always functional surroundings, lectures scattered across the city. It had the feel of a grand country house in decline.

Into this grey environment, Eli's return from Australia was a breath of fresh air. He had new ideas about what to teach and how to do it. He championed different ways of looking at legal issues. Above all, he had the confidence and vision to see that if Cambridge was to retain its position as the foremost school of international law in the English-speaking world, it needed new institutions in which new ideas could be given expression.

He started with publishing. Despite the magnificent tradition of international legal scholarship in Britain, by 1978 the main commercial publishing houses had lost interest in international law. Eli's response was to found his own publishing house, Grotius Publications. Initially it published only the *International Law Reports* but within a few years Eli

and his wife Cathy – who became the Managing Director – had built up a thriving list of monographs. Eli created the Hersch Lauterpacht lecture series in memory of his father. He used his unrivalled network of contacts to bring in some of the most prominent international lawyers in the world to give the lectures. Then Grotius published them. In 1978 few had given Grotius much chance of success. By the early 1990's, it was one of the most successful international law publishers in the world. In 1994 CUP bought it and used its list as the foundation for the immensely successful international law publishing operation which CUP now runs.

Even more striking was Eli's success with the Research Centre for International Law which he founded in 1983. His idea was to create an institution which could bring together scholarship and research in international law in Cambridge and be a springboard for the development of new projects. The Centre received little encouragement from the University. Initially the Old Schools' response to Eli's proposal was to tell him that he could not call it a Centre; as it was concerned only with one part of one subject – Law – it had to be “the International Law Unit” ! They underestimated Eli. He got the Centre, though it was twenty years before the University gave it any financial support. Initially, the Centre existed only in Eli's study at Herschel Road. But in 1986 he purchased a large house in Cranmer Road with donations he had secured, and with a large gift of his own money, and what we now know as the Lauterpacht Centre became a reality, with Eli as its first director.

It was not all plain sailing. Not all of the projects he planned worked out. Money was scarce and there were many ideas he was not able to bring to fruition as a result. But in defiance of those who thought it would never amount to anything, the Centre became a roaring success, a place where

LLM students and undergraduates rubbed shoulders with some of the most eminent figures in international law at the famous Friday lunches, and where a new generation of international lawyers launched their careers with Eli's keen support.

For Eli, international law was a vocation, not a mere job. After the Iran Consortium work, he gave part of his fees to create the International Law Fund (and persuaded several others involved to make similar contributions); when he represented Israel in the *Taba* case, which lasted most of a decade, he did so *pro bono*; and when he lectured, he was as concerned to inspire as to inform.

But for Eli, international law was also something to be relished and enjoyed to the full. When President Nasser nationalised the Suez Canal company in 1956, Eli's first reaction was to tell his wife "Happy days are here again!". When he was writing *Aspects of the Administration of International Justice* 35 years later, he bounced around the Centre like a schoolboy, so much was he enjoying himself.

In later years, he told Lesley Dingle – in one of the remarkable interviews she recorded for the Law faculty archive – that he was "a bit of a dull boy". Nothing could be further from the truth. He loved good food, good wine, good living. Going through his books after his death, I found the expected mixture of lecture notices and dinner invitations amongst the bookmarks. But I also found an invitation to the anniversary of Annabel's night club. No dull boys there !

Above all, he loved his family: his wife Cathy, his children: Deborah, Gabrielle, Michael and Conan. Conan and my older daughter were born within a few months of one another; and though Eli was the same age as my own father, he and I greatly enjoyed being parents together. His was a full, rounded life in which the law was important but never everything.

One final word. The last time he appeared in the ICJ, when he acted for Timor Leste in 2014, he spoke seated. But there was no diminution in his authority. Normally the President decides when to adjourn for the mid-morning break. On this occasion, Eli looked up, said he would like a break to collect his thoughts. There was a short pause. Then we adjourned; he collected his thoughts; he won his case. It was a fitting end.

When Eli fell seriously ill in early 2016, it was generally believed that he would live for only a few weeks. In fact he survived another year. It was a tribute to his indomitable spirit – and perhaps to a desire to prove everyone else wrong one last time.