

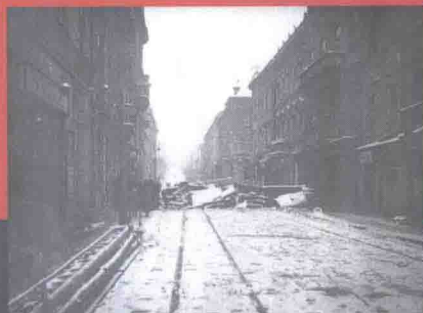
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# An International Bill of the Rights of Man

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Sir Hersch Lauterpacht

With an Introduction by Philippe Sands

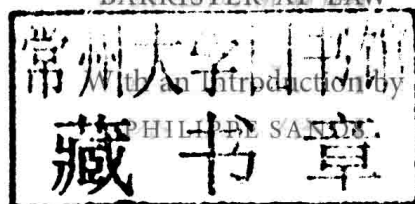


# An International Bill of the Rights of Man

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OXFORD  
UNIVERSITY PRESS

OXFORD  
UNIVERSITY PRESS

Great Clarendon Street, Oxford, OX2 6DP,  
United Kingdom

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First Edition published in 1945

This Edition published in 2013

Impression: 1

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Published in the United States of America by Oxford University Press  
198 Madison Avenue, New York, NY 10016, United States of America

British Library Cataloguing in Publication Data  
Data available

Library of Congress Control Number: 2013938188

ISBN 978-0-19-966782-6

Printed and bound in Great Britain by  
CPI Group (UK) Ltd, Croydon, CR0 4YY

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## Introduction

(on the occasion of its republication)

Philippe Sands<sup>1</sup>

HERSCH LAUTERPACHT'S *An International Bill of the Rights of Man* was published in the spring of 1945, and is one of the transformative legal works of the twentieth century. It posited a new international legal order, adopting Winston Churchill's commitment to 'the enthronement of the rights of man' and placing the protection of the individual human being at the centre of the international legal landscape, a means to bring an end to 'the omnipotence of the State'.<sup>2</sup> The book was immediately recognized as ambitious and revolutionary, a text that was well ahead of its time. Its significance lay in the melding of ideas and action: Lauterpacht's model for an International Bill that was legally binding and constrained what States could do to those within their jurisdiction—whether citizen or foreigner. It was amongst the first of such studies to go to print. It provided inspiration for the adoption of the Universal Declaration of Human Rights, adopted four years after Lauterpacht completed his book, and the legally binding European Convention on Human Rights that followed two years later, in 1950. A revised edition was published in 1950, which took account of those later developments but largely adopted the arguments put forward in the original.

Subsequent developments that seek to protect the individual on the basis of irreducible, universal, and enforceable rights available to all—human rights instruments, international criminal tribunals, the gradual demise of absolute immunity for individuals alleged to have

<sup>1</sup> Professor of Law, University College London. I wish to thank Remi Reichhold and David Schweitzer for their assistance in preparing this Introduction.

<sup>2</sup> Hersch Lauterpacht, *An International Bill of Rights of Man* (New York: Columbia University Press, 1945), Preface, p. v.

been involved in grave violations of human rights—are all directly connected to the ideas expressed by Hersch Lauterpacht in the original edition, and it is for that reason that the choice has been taken to re-issue the original.

\* \* \*

Lauterpacht was forty-five years old when, in April 1942, he received an invitation from the American Jewish Committee to write a book on the International Law of Human Rights. Five years earlier he had been elected as Whewell Professor of International Law at the University of Cambridge, a position attained following an improbable path that began in a small town on the eastern outskirts of the Austro-Hungarian empire.

Lauterpacht was born in 1897 in Zolkiew, the second of three children. His father was a timber merchant, and in 1911 the family moved to nearby Lemberg (now Lviv, in the Ukraine, and before that Lwów in Poland). At the age of eighteen he enrolled at the Jan Casimir University in Lemberg to study law, where he remained until 1919. In that period of study, when he was first taught international law by Professor Josef Buzek (grandfather of Jerzy Buzek, who was Prime Minister of Poland from 1997–2001), he experienced first-hand the consequences of war, strife, and discrimination on grounds of his Jewish religion: in September 1914 the Russian army occupied the city, and were thrown out the following year by the Austro-Hungarian army which remained in control until November 1918. That month saw Lauterpacht on the barricades in the streets of central Lemberg, protecting his family and home from the violent struggle that erupted between Polish and Ukrainian communities and which left many Jews caught in the middle. By the time Lauterpacht left the city in the autumn of 1919 to continue studies in Vienna, Lwów was part of newly independent Poland; the conflict in which Lauterpacht was caught up catalysed US President Woodrow Wilson to insist that the price of an independent Poland was a commitment to the protection of minorities, as reflected in Article 93 of the Treaty of Versailles.

Lauterpacht arrived in Vienna in the autumn of 1919, where he enrolled at the university to study with Professor Hans Kelsen.

Kelsen's work on the Austrian government committee drafting a new constitution—to include rights of judicial review for individual citizens—would have a deep influence on the young student's thinking. Lauterpacht left Vienna in 1923, married and with a PhD, to continue research at the London School of Economics, under the guidance of Arnold McNair, a lecturer in international law. There he remained for fourteen years, producing a string of works that attracted significant attention and touched on themes and ideas that would come to the fore in *An International Bill of Rights*. His first book, *Private Law Sources and Analogies of International Law*, was published in 1927, and followed in 1933 by *The Function of Law in the International Community*, probably his most significant work. A year later came *The Development of International Law by the Permanent Court of International Justice*. During this time too he published a great number of reviews, articles, and lectures, took on the editorship of the *Annual Digest and Reports of Public International Law Cases* (now the *International Law Reports*), and, from 1935, became the editor of *Oppenheim's International Law*, Volume I and later of Volume 2 (the fifth edition was published in 1935, and the sixth edition in 1940).

Lauterpacht also had a practical bent. Beyond editing the *Annual Digest* with McNair, he qualified as a barrister in 1935 and began providing advice on a range of issues, including the treatment of Jews in Europe following the Nazi accession to power in Germany in 1933. Throughout this period his family remained in Lwów and the surrounding areas: his last visit to the city was in 1928, although his parents were able to make occasional visits to London before the move to Cambridge, in 1937. Two years later, in September 1939, the Soviets took control of Lwów under the Stalin-Ribbentrop Pact. As the war progressed, Lauterpacht gave various advices to the British government, and from 1942 he assisted in the preparation of memoranda on the prosecution of war criminals. He also came to know the then United States Attorney-General Robert Jackson (and later Justice of the US Supreme Court), with whom he would work closely at the Nuremberg Trials (in July 1945, when Jackson came to visit him in Cambridge, Lauterpacht developed the formulation of 'Crimes

against Humanity' and the suggestion that it be introduced into the Nuremberg Statute, with a lasting and significant impact).

In May 1942 he signed a contract with the American Jewish Committee (the AJC) to write *An International Bill of Rights*. By then, the Nazis had occupied Lwów and he knew his parents and family to be in great danger, although communications had come to an end (it was only much later, in the course of the Nuremberg Trial in which he was participating as a member of the British prosecution team, that he learnt that his parents, brother, and sister had been murdered by the Nazis in August 1942). By then, his wife Rachel and son Eli had been evacuated to the United States, and although he made occasional visits, he was living a solitary life in Cambridge, England. The contract with the AJC offered a generous fee of US\$2500, with a further US\$800 towards secretarial and other expenses.<sup>3</sup> The preparation of the text was expected to take a year, but Lauterpacht was urged to proceed expeditiously, since the subject of individual rights under international law was already being examined by the American Law Institute and the American Bar Association.

Lauterpacht began his work in July 1942, hoping to complete it by the end of the year. This proved to be overly optimistic. In September he wrote to Rachel that he was 'doing quiet reading—but not yet writing—on the International Bill of Rights', noting that he had let himself in 'for a difficult thing', although he didn't regret taking on the commission. 'The "dough" will be useful in due course', he told his wife. By December 1942 he had made sufficient progress on the underlying ideas to be able to deliver a paper to the Grotius Society in London, entitled 'The Law of Nations, the Law of Nature and the Rights of Man'.<sup>4</sup> The lecture addressed 'the bewildering and seemingly insoluble problems of an international Charter of Human Rights', as well as the political challenge of imposing upon States the obligation to abandon the right to treat their own citizens entirely as they wished. Statesmen 'may recoil from the revolutionary immensity

<sup>3</sup> Elihu Lauterpacht, *The Life of Hersch Lauterpacht* (2010) ('Life'), p. 251.

<sup>4</sup> 29 *Transactions of the Grotius Society* (1944), pp. 1–33.



of the task', Lauterpacht noted.<sup>5</sup> He recognized the complexities of proposing 'innovation in the constitutional law of states and of mankind', although he hoped to show that any departures in the law would not break from 'what is truly permanent in the legal tradition of Western civilisation', and would be 'in accordance with the proper purpose of the law of nations'.

The hope expressed in the lecture would come to be reflected in the early sections of Part I of the book, which deal at length with 'natural rights' in legal and political thought and in the British Constitution, as well as Lauterpacht's perception of 'the inherent rights of man' and their connection to the 'law of nature'. The Grotius Society Lecture articulated a belief that the entire international legal order needed to be shifted on its axis, away from the protection of States and towards the recognition that 'the individual human being—his welfare and the freedom of his personality in its manifold manifestations—is the ultimate unit of all law'.<sup>6</sup> This theme underpins *An International Bill*: it was revolutionary when he evoked it, and has gradually moved into the mainstream of international legal consciousness, even if its full effects in theory and practice are yet to be felt.

The slow progress on the book was reflected in his correspondence with Rachel and Eli during the darkest days of the war. In December 1942, he worried about progress and the 'dull business' of writing the book. To expedite matters, and 'to prompt myself to produce something tangible', he undertook to offer three public lectures at Cambridge University in February 1943 (the lectures were postponed for a few months due to his being unwell).<sup>7</sup> In April 1943 he expressed regret to his son, who must by now be getting 'rather tired' of hearing of 'the progress (or lack of progress) of the famous Rights of Man'.<sup>8</sup> In May 1943 Rachel was back in England, and she attended a delayed lecture, 'a great occasion' in front of a large audience. 'Daddy was in good form', Rachel wrote, 'and the lecture was a most enlightening

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

<sup>7</sup> Letter from Hersch Lauterpacht to Eli Lauterpacht, 15 April 1943, in *Life* (n. 3), p. 228.

<sup>8</sup> Letter from Hersch Lauterpacht to Eli Lauterpacht, 2 April 1943, in *Life* (n. 3), p. 227.

exposition', although it seemed to have been 'slightly above the heads of the younger audience'.<sup>9</sup> After the final lecture, at which Lauterpacht 'read out solemnly the draft of the International Bill of Rights of Man', he wrote to his son that 'people thought that it was a historic occasion'.<sup>10</sup>

For Lauterpacht the key to his project was a desire that it should lead to something that was legally binding and not merely an exhortation that was declaratory of principle, a proposition that made the project 'a difficult subject'. 'If that Bill of Rights were merely a declaration of principle like the Atlantic Charter, then there would be no difficulty', he wrote.

We could cram into that Bill of Rights all kind of things including the so-called social and economic rights like the right to work, to social security, to equal opportunity in education, and so on. But the Bill of Rights, if it is to be effective, must be enforced not only by the authorities of the State, but also by international actors if necessary. How shall we do that? Shall we allow any individual whose rights, as guaranteed in the international Bill, have been violated to go to an international court and appeal against his own state and its courts? This would mean an international court flooded with thousands of cases on matters of which a tribunal of foreign judges has little knowledge. And would states agree to entrust to a foreign tribunal such questions touching the most essential aspects of their sovereignty? However, I must deal with the matter somehow.<sup>11</sup>

The questions he put to his son continue to resonate today. By August 1943, as the completion of the 'silly book' approached, he complained that it had 'exhausted' him.<sup>12</sup> A draft was sent off to the AJC at the end of September 1943, just before a holiday on Lake Windermere. Of all his many obligations, Lauterpacht complained, 'none I think will

<sup>9</sup> Letter from Rachel Lauterpacht to Eli Lauterpacht, 4 May 1943, in *Life* (n. 3), p. 229.

<sup>10</sup> Letter from Hersch Lauterpacht to Eli Lauterpacht, 26 May 1943, in *Life* (n. 3), p. 229.

<sup>11</sup> Letter from Hersch Lauterpacht to Eli Lauterpacht, 26 May 1943 (n. 11).

<sup>12</sup> Letter from Hersch Lauterpacht to Eli Lauterpacht, 26 August 1943, in *Life* (n. 3), p. 233.

give me as much of a headache as the Rights of Man'.<sup>13</sup> In November 1943, as an early draft was reaching New York by sea, he complained about the quality of US proofreading, which tended to be done 'rather negligently', and noted that he would 'try to have the major part of it published here separately'.<sup>14</sup> These complaints continued into 1944, by which time Columbia University Press had agreed to publish the work.<sup>15</sup>

Early in 1944 he submitted a revised text to the publisher, and in the spring of 1944 the full manuscript was delivered. That draft included a lengthy appendix setting out extracts of various national Bills of Rights, but a few months later he withdrew the appendix as it was 'not in keeping with the character of the book and is, to a substantial extent, misleading'. In December 1944, when the book was at the page-proof stage, the AJC's Director of the Overseas Department (Max Gottschalk) offered several pages of detailed suggestions, some of which Lauterpacht accepted. The book was finally published in June 1945, after the end of the war and around the same time that the United Nations Charter was adopted. By then, Lauterpacht had spent considerable time 'restoring many passages of the book to their original wording', a reflection of the changes introduced by the Columbia Press with which he was not happy. His determined character was reflected in the instruction that 'I should make it clear that it is a condition of the publication of the book that all the corrections which I have made in the galley proof should be rigidly adhered to'.<sup>16</sup>

The time of publication was a difficult one for Lauterpacht, as the war had come to an end without information about the fate of his family in Lwów, and he feared the worst (it was only in early 1946, as he contributed to the work of the British prosecution team at the Nuremberg trial, that he learned that almost all his family perished in Lwów and Zolkiew). Nevertheless, his attention to detail remained undimmed, and he expressed unhappiness with a sentence on the dust jacket for the US edition that claimed that his

<sup>13</sup> Letter from Hersch Lauterpacht to Eli Lauterpacht, 14 September 1943, in *Life* (n. 3), p. 234.

<sup>14</sup> Letter from Hersch Lauterpacht to Eli Lauterpacht, 23 November 1943, in *Life* (n. 3), p. 239.

<sup>15</sup> Letter from Hersch Lauterpacht to Eli Lauterpacht, 20 April 1944 and 1 May 1944, in *Life* (n. 3) pp. 246–247.

<sup>16</sup> *Life* (n. 3), p. 254, citing a letter from Lauterpacht to Dr Gottschalk, 12 December 1944.

book 'leaves no stone unturned in stating the case for establishing' an International Bill of Rights. Lauterpacht was unhappy with the sentence because it suggested that the book was 'propaganda and not an impartial enquiry'. He offered to meet the cost of a new cover when the book came out in England.

\* \* \*

The book is not propaganda. Nevertheless, Lauterpacht's carefully constructed argument—set out in three distinct parts—reflects the mind of an advocate who recognizes that the brief pushes to the very limits of acceptable argument. He hoped that his approach might preempt the inevitable criticisms that would flow from the deeply conservative world of international law and its lawyers.

In this way the opening part of the book seeks to lay the intellectual and historical foundation for the very idea of an International Bill of Rights, drawing on the connections between the law of nature, the law of nations, and the rights of man. Lauterpacht constructs his proposal on two foundations of fact: the first is the 'antiquity of the notion of the innate rights of man appertaining to him as a human being', and the second is 'the close association of these rights with the doctrine of the law of nature'.<sup>17</sup> He understands that in order to gain traction he must situate his project firmly in the traditions of Western civilization, as he sees them, that the 'law of nature' is a means to that end, even if somewhat of an intellectual stretch, but it becomes 'the bulwark and the lever of the idea of the natural rights of man'.

Lauterpacht anchors himself firmly to the belief that the original connection between 'natural law' and 'the rights of man' (which must include the claim to 'indestructible human rights') persists and has 'never disappeared'.<sup>18</sup> He claims to have identified an early-twentieth-century renaissance in the ideas of the law of nature, a means to find a 'spiritual counterpart' to the power of the modern State that itself constitutes a threat to the rights of man. Without referring to the Nazis or Hitler he invokes the 'pagan absolutism' perfected in 'the

<sup>17</sup> *An International Bill of Rights of Man* (n. 2), p. 25.

<sup>18</sup> *An International Bill of Rights of Man* (n. 2), pp. 39–40.

German State' after the First World War as a great threat to the rights of man and one countered by other countries that invoked the law of nature to affirm the sanctity of the individual.<sup>19</sup>

Lauterpacht's relationship with the law of nature is ambiguous. He recognizes a place for it—not 'consigned to the province of historical research'—but not its dominance, and it is treated as a means to an end, not an end in itself. The law of nature offers a 'spiritual basis' and 'political inspiration' to elevate the rights of man to 'a legal plane superior to the will of sovereign States',<sup>20</sup> recognizing that positive law alone is insufficient to 'supply the solution of the problem of the rights of man'... The law of nature offers an 'ever-present impulse and a fertile source of vitality and improvement', allowing the innovation that is an International Bill to be 'connected' with the permanent legal traditions of Western civilization.<sup>21</sup>

This is a hopeful argument, and not one that will convince all his readers. He knows too that he must engage with the peculiarities of the British legal tradition, and the absence of a written constitution that allows the doctrine of the absolute supremacy of Parliament to burn undimmed. These are 'factors to be considered', Lauterpacht appreciates, in the design of any International Bill, but they will not allow him to be put off, any more than the absence of judicial review of legislation of the Westminster Parliament. He goes no further than hope that these factors 'may be deliberately made to yield to the significant innovation' implied by an International Bill of Rights, recognizing that 'the notion of natural and inalienable rights human rights' is nothing less than 'a denial of the absolute supremacy of any earthly legislative power'.<sup>22</sup> These considerations strongly influenced the mechanisms of enforcement that Lauterpacht conjured up, and they continue to have strong currency seven decades later, as elements of British society continue to deplore the impact of judgments of the European Court of Human Rights in Strasbourg on the supremacy of the Westminster Parliament.

<sup>19</sup> *An International Bill of Rights of Man* (n. 2), p. 40.

<sup>20</sup> *An International Bill of Rights of Man* (n. 2), p. 52.

<sup>21</sup> *An International Bill of Rights of Man* (n. 2), p. 55.

<sup>22</sup> *An International Bill of Rights of Man* (n. 2), p. 65.

Buttressed on a foundation of antiquity and hope, the Second Part of the book offers a text for an International Bill, with a commentary for each of the twenty Articles. The preparation of draft Articles was innovative, as Lauterpacht had little to go on by way of precedent beyond an effort in 1929 by the Institut de Droit International. Some reference is made to the ideas of H.G. Wells and various international committees during the war, although no mention is made of the parallel efforts of the American Law Institute, presumably because of difficulties in transatlantic communication.<sup>23</sup>

Lauterpacht's draft Bill is in three sections. A first section of nine Articles protects what have come to be known by some as civil rights: liberty, freedom from slavery, religion, expression, assembly and association, privacy, equality, nationality, and emigration. By more contemporary standards, notable omissions on his part include any reference to a prohibition on torture or cruel treatment, or any obligation not to discriminate against women. Equally striking is his approach to the situation of non-whites in South Africa and 'the thorny problem of actual disenfranchisement of large sections of the Negro population in some States of the United States', both a brutal recognition of the *realpolitik* necessary to allow those two countries to engage with an International Bill.<sup>24</sup> The second section, in five Articles, covers other political rights (elections, self-government, minority rights) and, to a limited extent, economic and social rights relating to work, education, and public assistance in case of 'undeserved want'. As will later become clear, Lauterpacht believed that such rights are not to be justiciable. He also chose not to include any protection of property rights, a nod perhaps to the political wind coming from the east, and to domestic political considerations in the United Kingdom, where nationalization was very much on the agenda in the coming General Election. Nevertheless, Lauterpacht knew that his Articles represented a 'radical innovation in international law', imposing obligations upon States that would require

<sup>23</sup> American law Institute, *Statement of Essential Human Rights*, 89 *Proceedings of the American Philosophical Society* 489 (1945).

<sup>24</sup> *An International Bill of Rights of Man* (n. 2), pp. 140–141.

them to agree to limit their sovereignty in a legal instrument creating enforceable legal rights for individuals. Such rights and obligations, Lauterpacht believed, would do no more than codify generally accepted principles of law and would be generally applicable, available to all.<sup>25</sup>

The third section of the Bill is in six Articles and addresses the sensitive matter of the enforcement of the rights identified in the Bill's first section. The scheme includes an obligation to adopt those rights into domestic law and allow for their review by national courts, supplemented by an international supervisory mechanism that is notable in falling short of a call for an international court. The balance between national and international anticipates the principle of 'complementarity' reflected in the Statute of the International Criminal Court, adopted more than five decades later.<sup>26</sup> In certain respects this third Part is the heart of the book: Lauterpacht was concerned that any Bill must not merely declare rights (as the Institut de Droit International's 1929 effort proposed, and as the 1948 Universal Declaration on Human Rights would later replicate) but should impose binding legal duties that could be the subject of enforcement measures. This would avoid mere academic exhortation.

Lauterpacht rejected too the model offered by the procedures and approaches of the discredited Minorities Treaties implemented after the First World War. These were inadequate, he believed, not least because they failed to provide for a constant supervision (no Permanent Minorities Commission ever emerged, as some had hoped) but because they became mired in political actions. He wanted too to avoid any vestige of 'individual intervention', namely supervision at the instance only of the State alleged to be in violation, and proposed a scheme that allowed action at any time, not merely after a violation had occurred, or was about to occur.<sup>27</sup> He rejected any idea of 'international judicial review' by means of an international court

<sup>25</sup> *An International Bill of Rights of Man* (n. 2), pp. 75–82.

<sup>26</sup> Statute of the International Criminal Court, Rome, 17 July 1998, preamble ('Emphasizing that the International Criminal Court established under this Statute shall be complementary to national criminal jurisdictions'; see also Art. 17.

<sup>27</sup> *An International Bill of Rights of Man* (n. 2), p. 172.

accessible to individuals who could not find a remedy at the national courts. Such an idea, he believed, may be 'logical and simple'<sup>28</sup> but was unsound and impracticable because it would lead to 'an amount of litigation so vast that not one tribunal would be required, but many tribunals', and this in turn would lead to 'a divergence of interpretations'.<sup>29</sup> This was practical Lauterpacht speaking. He recognized other difficulties, not least the fact that some countries (like Britain) did not allow for domestic judicial review and could hardly be expected to agree to an international model that would imply 'a surrender of sovereignty on a large and unprecedented scale'.<sup>30</sup> He recognized too that an International Bill would be a text of 'great generality' and that its details would have to be filled in by legislation and judicial precedent in each State, that there was 'room for a wide divergence of law and practice', and that the law and judicial practice of each State had 'evolved their own solutions and their own procedures'.

On this view, an International Bill must not attempt to introduce 'a world law', and the municipal law of States 'cannot be administered by international courts possessing no requisite knowledge of the law, of the legal tradition, and of the social and economic problems of the individual States'.<sup>31</sup> An alternative approach might be national tribunals that included foreign judges, but in the transitional period after the Second World War the time was not ripe for such innovation. Against this background, enforcement should primarily be a matter for national courts, coupled with a 'permanent international authority' that was neither judicial nor political in character which could supervise and enforce the observance of the rights set out in Part I of his International Bill.

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Lauterpacht knew his ideas would attract criticism. In July 1944 he told Dr Simon Segal of the AJC that the book 'would be assailed by

<sup>28</sup> *An International Bill of Rights of Man* (n. 2), p. 173.

<sup>29</sup> *An International Bill of Rights of Man* (n. 2), p. 174.

<sup>30</sup> *An International Bill of Rights of Man* (n. 2), p. 175.

<sup>31</sup> *An International Bill of Rights of Man* (n. 2).



the orthodox as going too far; by the progressive as being too conservative and evasive; by the lawyers as being revolutionary; by the layman as being too legalistic; and so on'.<sup>32</sup> He would take any criticism 'philosophically', and expressed the hope that the AJC would do the same.<sup>33</sup> The book was published in June 1945, as the United Nations Charter established a first global organization committed to 'promoting and encouraging respect for human rights and for fundamental freedoms for all' (Article 1(3)).

The book was widely reviewed in academic journals and generated a range of reactions. Robert Jennings, a younger colleague at Cambridge, considered the work to be 'statesmanlike',<sup>34</sup> and from Georgetown in Washington DC came the view that it was 'persuasive'.<sup>35</sup> Others were less enthusiastic, not least in respect of his partial embrace of natural law and rights, which had been sidelined by the drafters of the US Declaration of Independence and Bill of Rights and also exploited by others who sought to justify everything from slavery (Aristotle) to the Aryan leadership principle (Hitler).<sup>36</sup> Such critics considered that Lauterpacht had failed 'to come to grips with the realities of government'.<sup>37</sup> An anonymous reviewer in the *American Bar Association Journal* thought the book to be already out of date, and suggested that Lauterpacht could render 'a vast service by re-surveying the whole subject in the present tense with the Charter and the Statute before him'.<sup>38</sup> Yet other reviews found the book to be 'full of ideas' and 'fresh', a 'pragmatic and realistic' combination of legal theory and political knowledge.<sup>39</sup>

The quality of the reviews reflect a broad recognition of the singular importance of the work. Philip Jessup applauded the 'quiet and moderate assurance' with which Lauterpacht inspired 'the anticipation of

<sup>32</sup> *Life* (n. 3), p. 255, letter of 17 July 1944.

<sup>33</sup> *Life* (n. 3).

<sup>34</sup> See also R.Y. Jennings, 23 *British Yearbook of International Law* 509 (1946); see also Harrap Freeman, 15 *Fordham Law Review* 309 (1946).

<sup>35</sup> Francis E. Lucey SJ, 34 *Georgetown Law Journal* 121 (1945-46).

<sup>36</sup> George Jaffin, 45 *Columbia Law Review* 977 (1945).

<sup>37</sup> William S. Stokes, 36 *Journal of Criminal Law and Criminology* 337 (1945-46).

<sup>38</sup> *Life* (n. 3), note 23, p. 257.

<sup>39</sup> Reviewed by CMJ (full name not provided), 8 *Cambridge Law Journal* 261 (1945-47).