

- The advancement of legal education depends upon the results of researches of international law societies.

LEGAL EDUCATION AND RESEARCH

VICENTE G. SINCO

The promotion of world peace through law requires for its success the employment of education, in general, and legal education, in particular. This condition is practically indispensable and should go hand in hand with other activities that make for peace. It is generally admitted that the use of political and economic measures alone does not effectively abolish war. On the contrary, it makes war at times necessary and even profitable.

But to confine ourselves to the subject of legal education for world peace, it appears desirable that an understanding of law, particularly international law and its institutions, should not only be acquired by members of the legal profession but should also be widely spread among the educated inhabitants of every country. The problem of peace

through law is not merely the concern of the individual. It is a problem that faces all nations and all men. Consequently, a measure of legal education should be enjoyed by the general public in order that it could serve as a pervasive and persistent social influence for the adoption of peaceful methods of adjusting international differences.

In the long run, it is the diffusion of an effective education for peace through law that could create an intellectual atmosphere adverse to war and other violent forms of remedial action. Hence, the development of a human environment of this nature should be the concern not only of the professional school teacher but also of the lawyer and of every educated person. Of course, this is a long, tedious, and difficult process. But so far there

seems to be no method better than this that *could* change and ultimately suppress war as an ancient practice or a deeply rooted habit which mankind has collectively followed or has taken for granted since time immemorial. The pursuit of peace must of necessity be considered a priceless goal of the adventure of legal education. It cannot be done, much less achieved, by political edicts, administrative decrees, or legislation. To carry it out, it has to be started on the basis of a well-studied plan and a carefully conducted implementation.

No plan of mass education may thus be considered adequate as an instrument for world peace unless it makes provision for some acquaintance with the fact that there exists a system of laws which precisely lays down certain standards of conduct among the different nations of the world. A satisfactory program of general education on the availability of rules should place sufficient stress on law and courts for the peaceful settlement of international conflicts. It should describe the horrible effects

of another world war which may likely be fought with the present terrible means and methods of wholesale murder and devastation. In a word, basic education for the masses would be incomplete unless it could help arouse in them a strong consciousness of the rule of law as an instrument for world peace.

Mass education of this nature and with this goal as an essential objective should serve as the ground work, the foundation, for a system of legal education which could be an effective medium for the establishment of world peace. The vast multitude of the world population today even if we should exclude the ignorant and the illiterate, are not aware that there are legal and peaceful methods which could be used in settling international disputes. They only know that governments and political leaders have always resorted and may always resort to war to settle differences between nations as long as they have the weapons and the resources for such purpose.

Relatively vast sums are being set aside today for mass

education. Even small countries devote a large proportion of their national budgets for so-called fundamental education. But for legal education there is nothing but niggardly amounts. For the advancement of the international law aspect of legal education not much has been done. Colleges and universities do not generally give enough attention to the subject except in their graduate courses. Oftentimes, it is merely made a minor part of the course in political science and is discussed in only one or two chapters of textbooks in international relations. The small value assigned to it in this manner has the effect of belittling the importance and purpose of international law in the mind of the average student in a college or in a law school. As a subject for graduate or post graduate work, international law is studied by only a limited number of students, persons who take it for purposes of specialization.

To give more impetus to its study by all students in our law schools and thereby develop greater interest in its role as an instrument for

would peace should be a serious responsibility which the legal profession should consider and conscientiously assume. It should be realized, of course, that funds are indispensable for qualified professors, materials, and facilities. They should be made amply available by governments or private foundations. For no other object of expenditure and human effort is as important as that of establishing and preserving world peace through law if human life and the maintenance of civilization are worth saving from the threat of total annihilation.

The program of legal education should not be carried out only in schools and colleges. Its benefits may be widely dispersed when taken up in discussion groups or seminars among lawyers, public officials, and businessmen. These may be conducted either by special committees or by existing law or civic associations in various countries under the auspices of the Center for World Peace Through Law. Papers prepared and presented at this meeting should be given the widest distribution possible

in each country. Syllabi, textbooks, casebooks and reports of judicial and arbitral tribunals, and similar educational materials need to be supplied to different civic centers, public libraries, colleges, universities.

The services of individual lawyers and law associations need to be solicited for these activities. Courts and committees or commissions in charge of bar examinations should be appealed to for the inclusion of international law among the subjects required in the examinations of applicants for admission to the bar. It should be given considerable weight in the preparation of bar tests and in the assessment of the results. Because the movement for world peace through law need to be known and felt by public officials, it would not be out of place to suggest that an acquaintance with international law be made a qualifying requirement for persons chosen for the higher civil service of every government.

The consensus in the different continental conferences have favored the organization of a World Rule of

Law Center.. This obviously is a wise step to take. It is to be a clearing house for the lawyers to exchange information and views on a global scale. The establishment of such Center assures the viability and progress of whatever plans and projects need to be undertaken for the success of the enterprise the law-years of the world are now determined to accomplish. It is a needed mechanism through which the programs now considered for World Peace Through Law may be implemented. The activities necessary to carry out legal education on a global scale as well as the work of intensifying researches in international law or coordinating the researches of the different existing institutions need a permanent body which could follow up and encourage them. The Center could serve as an agency to obtain available resources and technical assistance from different legal, financial, and educational organizations. It could act in mobilizing them for the fullest possible development of a worldwide consciousness of law as an instrument for inter-

national peace. To enhance its effectiveness, it would seem advisable that there be organized active correspondents and committees in all countries to promote the ideas and objectives of the conference and to recruit participants and supporters of this movement. Without this Center, the conference on World Peace Through Law might turn out to be another beautiful but impractical concoction of dreamers as described by self-styled hard-boiled or so-called down-to-earth leaders and politicians.

That there are at present existing international and national institutions actively engaged in promoting world peace through law is too well known by many to be overlooked. The United Nations is the most important of them. Practically all the states of the world are its members. But it is primarily and largely a political body. Its record so far shows that it generally avoids solutions for the problems brought before it. It shows extreme reluctance to develop international law or to encourage the use of its own legal in-

stitutions, such as the World Court, to determine what are obviously legal questions. Nevertheless, the United Nations, with all its defects, promises to grow as the foundation for the future structure of a true international community. But this will require a long period of international education to which this conference now plans and hopes to give greater attention that has yet been given thus far.

Just as important as the promotion of international law education is the development of new research projects and the coordination of research projects and the coordination of research work already being undertaken by established institutions. The advancement of legal education depends upon the results of well-planned and carefully accomplished researches of international law societies and institutes, regional centers, universities, and other public and private institutions. It should be recognized that there is actually a dearth of research in international law. Science is way ahead in research activity. There are established centers for inter-

national studies which give but slight attention to international law in their program of activity. These places should be induced to promote on some phase of the subject.

The development of a comprehensive system of international bill of rights for the protection of every individual regardless of race, nationality, creed, sex, residence, and social station should be adopted. It is as indispensable to a world legal system as the bill of rights is to a democratic national constitution, and made part thereof by mere reference, needs a clear definition of its scope. There should be a restatement or codification of the specific rules which fall within these general principles.

The working papers for this Conference makes mention of other subjects for study and research in order that a more comprehensive system of law applicable to states and individuals may be utilized in determining international standards of conduct and in adjusting clashes of interests before authorized international tribunals. The

acceptability of a system of this nature and scope obviously depends upon the freedom of its provisions from obscurity, ambiguity, and partiality. The chances of its implementation by big powers and small nations under such terms and conditions are likely to be enhanced.

The researches of existing legal organizations as well as decisions on questions of international law are largely known only by experts and some officials of certain international organizations: The products of research are of little practical value to society until after they are widely known and understood by the educated public. Hence publication should be an inseparable part of research programs. Translation into principal languages should form part of this undertaking. By so doing the progress of international law studies could be known not only by specialists but by the members of the legal profession and by the public. There are, of course, some technical periodicals today publishing articles on international law, but these are circulated almost exclusively

among members of the organizations which take charge of their editing and publications. But the importance and necessity of international law as an instrument for the regulation and control of the relations and conduct of the states may only be widely appreciated when the lay public is in some way made aware of its growth and of the constant and serious attention, time, and thought devoted to its development by competent scholars and responsible national leaders. Hence, it is not sufficient that the publication of researches in international law be confined to technical journals for distribution among a small group of specialists. They should appear in newspapers and other general publications, and they should be written in language and style which the average law student, the public official, and the educated lay reader could understand and appreciate.

International law articles and decisions of international tribunals have an intrinsic appeal to many people. Such materials could be of direct interest to the average edu-

cated man because of their relation to problems of human security and survival. It would not be astonishing if much of the literature on the subject presented in a clear and readable style rather than in the obscure or technical jargon of the specialist would arouse the interest of the layman in the objectives of the rule of law as an instrument for global peace.

It might be opportune to recall at this juncture what one English scholar, once a Stowell Fellow of Oxford University, Thomas Baty, stated on how the Law of the Nations should be presented. He said that it is necessary that it be exhibited as "a body of rules based on clear, simple, intelligible, and sensible principles, commanding by its intrinsic merit the occurrence and allegiance of the world." But unfortunately, he added that not even the League of Nations "saw the necessity of bringing the Law of Nations home to the common man." And so in a volume he wrote on *The Canons of International Law*, he suggested that international law be

simple, objective, and elastic. And the reasons he gave are: "*Simple*, because the common consent of the thought of so heterogenous a composite as is afforded by the varied peoples of the world must obviously be limited to clear and plain propositions. *Certain*, — (that is, protected by its exponents from rash and officious questioning) — because if a rule is made the passive subject of a vigorous and sustained sciolist attack, it is difficult to maintain that it enjoys general acceptance. *Objective*, because only clear objective tests can be applied, when it is the opinion of the multifarious peoples of the globe which is to be based upon them. *Elastic*, because conditions change, and opinions alter: a rigid rule which allows no room for corresponding modifications is no rule at all. Every year since then, with the progressive replacement of principle by interest, the law has become less simple, less certain, less objective and to a fatal degree increasingly too elastic. We are slipping into the same state of anarchic practice as that which in an earlier cen-

tury aroused the indignation of Grotius."

Thus it is not only for the layman that clearer and more intelligible materials on international law should be made available. It is even also needed by many lawyers themselves. The average lawyer in my country and, I suppose, in some of the other countries, as well, does not often involve himself in questions of public international law. As we all know, the cases which constantly engage his attention in his professional work seldom, if at all, call for the use and application of treaty provisions or principles of international law. As a matter of fact, it is a rare occasion when problems of international law are ever discussed in gatherings of lawyers he attends. It is almost certain that the last time he participated in a discussion affecting international law was when he was a student in the law school. No wonder then that his attitude towards international law and matters affecting international legal organizations is one of indifference. He considers them as pertaining to a field quite

foreign to his professional business and to his personal life. He is almost convinced that they are better left to a law professor in a university or to the two or three men working in the legal division of the foreign office of his government.

This professional indifference to international law and related matters has disturbed the minds of some responsible leaders of the profession. Thus the late Justice Arthur T. Vanderbilt, one of the outstanding American jurists, in his lectures on *Men and Measures in the Law* raised these questions: "In these days of complicated international relations, with a lingering hope for One World and a brooding fear of Two Worlds, is not a deep understanding of public law, including international law more important for lawyers than ever before in the history of mankind? Should the profession or the public generally be willing to leave these matters exclusively either to political scientists or to public officeholders?"

The nature of the legal profession, the tasks that the members of the profession

are called upon to perform, their significance to the personal and business affairs of the individual, their relevance to the social order, all of these and more justify the importance of the position and role of the lawyer in his community. Hence, a competent scholar was not without reason in bestowing upon the lawyer the title of officer of civilization. For the concepts of law, liberty, and order have ever been his concern, and without them as basic ingredients modern civilization would not have been possible. There can be no economic and other forms of materials enterprises which generate the substance and content of civilized life in an atmosphere of chaos and lawlessness..

The lawyer, however, has limited his field of action to his community or his nation. But the size of the world has contracted; nations have become closely interdependent on one another; and their orderly relations are now the concern of all. Whatever the lawyer does within and for his country is no longer adequate to secure peace even in his very country it-

self. He need expand the area of his service into the outside world and into its problems in the quest for peace. Hence the lawyer today has to develop a new conception of his professional duty. Professor Dennis W. Brogan, who is not a lawyer himself, has expressed the opinion that because of the versatility and quick adaptability of the lawyer to the changing social context, his role in educating the public "for tolerable social living in this dangerous age is extremely important."

In the international society his preparation, we must confess, could be much improved. In matters affecting foreign relations, his qualifications are in some instances so deficient that he is found unequal to his duties. Not very long ago some newspapers published reports about a judge who acted in complete ignorance of a well-known rule of international law and practice affecting diplomatic immunities. Mr. Philip C. Jessup, now a judge of the International Court, commented on that incident in these words: "Recently a judge of the City Court of

New Rochelle, New York, was called upon to rule upon the immunities of the chauffeur of the Secretary-General of the United Nations. Pending Senate approval of a United Nations treaty defining such immunities, the subject is covered by general language in the Charter, and in an act of Congress. The Charter itself is, of course, a treaty and under the Constitution (meaning the American Constitution) is part of the supreme law of the land. But the Charter is a constitutional document which lays down broad principles rather than detailed rules. The judge in denying immunity from arrest in this case was obviously unfamiliar with *two centuries of law and practice* relative to the comparable problem of immunities for the diplomatic representatives of foreign states and could see no reason why the immunities for the United Nations staff should differ from those accorded members of state and federal legislatures. Without going into more detail, the case is cited as evidence of the need in this enlightened country for more

understanding of the nature of international organizations and the responsibilities of the United States as the host country." This may not be a typical case, but it reveals either an inadequacy of legal education in the field of international law or the existence of utter indifference to commonly known rules of international law even among legal officers. It certainly seems to strengthen the need for more education in the general rules and principles of international law on the part of lawyers and public officials.

I should like to conclude this paper by quoting a statement of the Honorable Elihu Root which says:

"The increase of popular control over national conduct, which marks the political development of our time, makes it constantly more important that the great body of the people in each country should have just conception of their international rights and duties.

"Government do not make war nowadays unless assured of general and hearty support among their people; and it sometimes happens

that governments are driven into war against their will by the pressure of strong popular feeling. It is not uncommon to see two governments striving in the most conciliatory and patient way to settle some matter of difference peaceably, while a large part of the people in both countries maintain an uncompromising and belligerent attitude insisting upon the extreme and uttermost view of their own rights in a way which, if it were to control national action, would render peaceful settlement impossible . . .

"Of course it cannot be expected that the whole body of any people will study international law. But a sufficient number can readily become sufficiently familiar with it to lead and form public opinion in every community in our country upon all important international questions as they arise."

These thoughts were expressed by that great American statesman in the early part of this century. He gave them as his salute to the founding of the American Journal of International Law. They are still applicable to

the conditions of the world today. I am convinced that they could serve as an inspiration and a guide in our present endeavor to promote world peace through the rule of law.

Writers and historians have characterized different historical periods by the outstanding events occurring in each. There were, for example, the age of faith, the age of feudalism, the period of geographical discoveries, the revival of learning, the industrial revolution, the age of global wars, the atomic age, and the age of outer space

exploration. May the last quarter of the present century go down in history as the age of international law and may this conference mark the real beginning of that age. For this event, there is no better site than Athens the place of origin of those intellectual ideas and aesthetic sentiments which have made possible the flowering of modern civilization.

(Speech delivered at a panel discussion of the International Conference for World Peace Through Law in Athens, Greece.)

POOR APE!

The most famous of debates over a theory of modern science took place in 1860 when Bishop Wilberforce shared a platform with Thomas Henry Huxley. The Bishop concluded his attack on evolution by asking Huxley whether his descent from the ape was on his father's or his mother's side. Huxley's crushing reply, from his own account in a recently discovered letter, was:

"If then, said I, the question is put to me would I rather have a miserable ape for a grandfather or a man highly endowed by nature and possessing great means and influence and yet who employs those faculties and that influence for the mere purpose of introducing ridicule into a grave scientific discussion — I unhesitatingly affirm my preference for the ape."