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Abram Chayes

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Ted L. Stein: A Personal Tribute

Abram Chayes*

Ted Stein was my student, colleague, collaborator, and friend. He was among the most impressive of the younger American scholars in the field of international law.

I remember him as a student, hardly a decade ago. Like many entering law students, then and now, with undergraduate backgrounds in international relations, he professed an interest in international law. Usually that means an interest in being Secretary of State, and it fades quickly as the process of professional socialization takes over. Not for Ted. His interest was a commitment that led him first to an editorial position on the *Harvard International Law Journal*, then to a term in the State Department's Office of Legal Adviser, and ultimately to what should have been a long life's work of teaching and scholarship in international law.

When I returned to academic life from my own tour in the State Department in 1966, I had grand ideas about refashioning the study and teaching of international law in American law schools. Together with two State Department colleagues, I developed a set of problem materials based on two principal criteria.¹ First, they were to present international law in the concrete policy and decision settings in which it is actually practiced. And second, they were to have no relation to the classical doctrinal structure that formed the basis of most international law courses at the time. We were fairly successful in breaking away from the old structure. But, as with other heterodox teachers of that time and since, we were a good deal less successful in finding a new framework to put in its place.

Ted took that course and enjoyed it. But he turned his own thinking and writing back to classical themes and issues. He continued to use our course materials long after the problems were so dated as to provoke student revolt at Harvard. It was he who finally convinced me to begin the work of revising them and developing more contemporary settings to illustrate the enduring problems, principles, and methodologies of our subject.

In his last two years, we set out on that work together, or I should say he set out on it. For it was his persistence and energy that kept the project going in the face of my inertia. Characteristically, Ted's first suggestion was a return to basics. "Let's start," he said, "with a problem on the

*Felix Frankfurter Professor of Law, Harvard University. Harvard University, A.B., 1943; LL.B., 1949.

1. A. CHAYES, T. EHRLICH & A. LOWENFELD, *INTERNATIONAL LEGAL PROCESS: MATERIALS FOR AN INTRODUCTORY COURSE* (1968).

sources of international law.” Ted did not consider the fundamentals to be merely subjects for abstract academic disquisition. He retained, perhaps from his law school course, the conviction that international law is best studied in the setting of concrete problems where it can be seen to make a difference in the real world of relations among states, organizations, and persons across borders.

He took for his problem the decision of the United States not to adhere to the Law of the Sea Convention. The materials he assembled focused on how the United States’ position necessarily implied certain propositions about the applicable rules of general international law. He provided the student not only with the elements of a comprehensive understanding of traditional and modern thinking on the development of customary law, but at the same time with the basis for a professional critique of the legal premises of the United States’ decision and an analysis of its likely consequences.

Largely because of Ted’s prodding, I have at last completed a revision of the materials for my course. It is a debt I would like to have acknowledged to him in person. The materials begin with Ted’s law of the sea problem. Sadly, the remainder has had to do without his wise and perceptive criticism and help.

I have given only an instance of my personal loss and the loss of the international law profession in Ted’s death. It prefigures the contribution he would have made. He was among the best of the small band of serious international law scholars of his generation. He will be badly missed.