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# JAKE AND I: A STORY OF A COLLABORATION

Eric Stein\*

Harold Jacobson (known as Jake to friends and colleagues) and I co-authored a book entitled *Diplomats, Scientists, and Politicians: The United States and the Nuclear Test Ban Negotiations*.<sup>1</sup> For Jake, the quintessential political scientist, and for me, a lawyer with a policy background, it was the first adventure across disciplinary lines. This was almost forty years ago. For Jake, it was followed by a cornucopia of successful interdisciplinary projects in the late eighties and nineties. Shortly before his death, I attempted to ensnarl him in another joint enterprise, to expand my article on international integration and democracy<sup>2</sup> into a systematic study. With too many items on his agenda, he hesitated. As for myself, it would have been only a second collaboration with a political scientist—but it was not to be. Only a shining memory remains of five decades of a treasured friendship with a premier scholar and a wonderful human being.

How did our cooperation come about and why did it succeed? Does it offer a more generally applicable lesson? The truly interesting aspect of the story is the evolution of Jake's complex relationship with international law and institutions worthy of a scholarly *Bildungsroman*. With apologies for indulging in personal reminiscences (typical of his modesty), Jake described his conversion not long before his death: "The story is one of rejection, abandonment, rediscovery, and efforts to achieve rapprochement."<sup>3</sup>

Jake entered the graduate program in international relations at Yale in 1950 and left with a Ph.D. in 1955. At Yale, he became imbued with the new realism of E.H. Carr and Hans Morgenthau, who rejected law as a prescription for world order. He did not take Percy Corbett's course on international law and his dissertation on Soviet behavior in the United Nations contained "little law."<sup>4</sup> Reflecting the disappointment with the centralized institutional schemes of the League of Nations and the

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1. HAROLD KARAN JACOBSON & ERIC STEIN, *DIPLOMATS, SCIENTISTS, AND POLITICIANS: THE UNITED STATES AND THE NUCLEAR TEST BAN NEGOTIATIONS* (1966) (1966 University of Michigan Press Book Award).

2. Eric Stein, *International Integration and Democracy: No Love at First Sight*, 95 AM. J. INT'L L. 489 (2001).

3. Charlotte Ku et al., *Exploring International Law, Opportunities and Challenges for Political Science Research*, INT'L STUD. REV., Spring 2001, at 3, 15.

4. *Id.* at 16.

growing marginalization of the United Nations in the late fifties, political scientists of the day stressed “facts” and “power,” and viewed international law and institutions as irrelevant. The first thing Jake did when he arrived to teach at Michigan in 1957 was to propose “dropping law from the title of . . . courses in international law and organization.”<sup>5</sup> There was no “law” in the two editions of his popular anthology, *America’s Foreign Policy*, first published in 1960, before our cooperation.<sup>6</sup> And yet, looking back years later, he wrote that “even in the 1950s, I could not escape a nagging sense that to ignore international law was to ignore an important part of international relations.”<sup>7</sup>

I began teaching international law and organization at the Michigan Law School in 1956, a year before Jake’s arrival in Ann Arbor. I came directly from the Department of State, where I served not as a lawyer, but as a political officer from 1946 through 1955 in the Bureau of United Nations Affairs (later Bureau of International Organization). International organization was my daily business. I also worked on aspects of arms control<sup>8</sup> and on the “Atoms for Peace” program, an American-led international initiative, designed to encourage non-military uses of nuclear energy that at the time were thought to offer boundless benefits.<sup>9</sup> In this context, I acquired a rudimentary knowledge of technical data about the new source of energy, which years later proved invaluable during my collaboration with Jake.

In post-war Washington, I was entirely swept up by the vision of a “new world order” based on international law and universal institutions, with the United Nations at the center. This vision however, faded quickly. In American foreign policy, it was replaced by concepts of containment in a divided world and variants of nuclear weapons’ strategies, with the U.N. blocked by the Cold War. I left the Department with a deep sense of disillusion, a “realist” close to Harold’s vintage. Yet, like Jake—deep down—I was not prepared to accept the idea that law and institutions were irrelevant in the international system. Responding more or less unconsciously to this “nagging feeling,” I became intrigued with the new experiment in law and institutions, the European Community, and made it a focus of my research. By a happy coincidence, and per-

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5. *Id.*

6. AMERICA’S FOREIGN POLICY (Harold Karan Jacobson ed., rev. ed. 1965). Significantly, the sole writer represented in the collection with three pieces was George F. Kennan, who viewed international law as “gentle fertilizer.”

7. Ku, *supra* note 3, at 16.

8. See Eric Stein, *Legal Restraints in Modern Arms Control Agreements*, 66 AM. J. INT’L L. 255 (1972).

9. Under this program, the U.S. Government donated small nuclear research reactors to any government that indicated interest. See Bernhard G. Bechhoefer & Eric Stein, *Atoms for Peace: The New International Atomic Energy Agency*, 55 MICH. L. REV. 747 (1957).

haps for the same motive, Harold too was drawn to the unfolding European integration. During that period, his and my work was essentially empirical and descriptive, with strong policy orientation.<sup>10</sup>

At the time, we both drew on Ernst Haas' neofunctionalism, and Jake was attracted to behaviorism and quantification (which he later embraced). For example, in 1990, before an audience of international lawyers, Jake presented a table purporting to quantify and compare the size of authority conferred by the component states on the European Community and on the United States federation respectively, on a scale from 1 to 5.<sup>11</sup> In our regular lively discussions, I was the skeptic regarding the use of quantification in the absence of concrete, measurable data. Generous as always, Jake wrote in the introduction to his important "Network of Independence:" "Eric Stein has given me a fresh appreciation of the relevance of international law for international organization and has constantly reminded me of the importance and unique qualities of the European Communities."<sup>12</sup> He did not say that with his vast knowledge of the literature, he was my indispensable guide to political science. Jake thought that my early training at the Charles University in Prague (in addition to my study of law at Michigan), my experience in the Department of State, and my work at the United Nations had made me receptive to collaboration with nonlawyers.<sup>13</sup>

Our book was conceived as a case study of negotiations in the broadest context of domestic and international politics and the evolving science, with an emphasis on American policy. We believed that the prolonged test ban negotiation provided "as good a basis for generalizations as any single set of diplomatic talks that have occurred since the end of the Second World War."<sup>14</sup> My contribution to the project centered on the structuring of the proposed massive Control Organization scheme proposed by the West, which involved every conceivable issue of modern international organization. The plan, grotesquely disproportionate to the intended limited control task, was ultimately abandoned due to Soviet opposition. Here, my earlier work on the drafting of the charter for the International Atomic Energy Agency was quite useful.

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10. See, e.g., Harold K. Jacobson, *Economic and Political Integration: From Schuman Plan to European Common Market and Euratom*, in PROBLEMS IN INTERNATIONAL RELATIONS 156 (Andrew Gyorgy & Hubert S. Gibbs eds., 2d ed. 1962).

11. Harold K. Jacobson, Remarks at the Annual Meeting of the American Society of International Law, (March 30, 1990), in AM. SOC'Y OF INT'L LAW, PROCEEDINGS OF THE 84TH ANNUAL MEETING 218 (1991) [hereinafter ASIL Remarks].

12. HAROLD K. JACOBSON, NETWORKS OF INDEPENDENCE: INTERNATIONAL ORGANIZATIONS AND THE GLOBAL POLITICAL SYSTEM, at ix (1979).

13. Ku, *supra* note 3, at 18.

14. JACOBSON & STEIN, *supra* note 1, at 469.

The book contains precious little traditional international law, but much about institutions, domestic and international. That explains why Jake provided the drafts of the majority of the chapters. The six pages on the privileges and immunities of the aborted Control Organization do deal with an international law concept, but even here the issue was swamped by political maneuvering. I recall preparing a section on the subject of legal personality of international organizations, but it vanished from the final text, probably at Jake's suggestion. Yet a quarter-of-a-century later, Jake served as a member of a panel on "The European Community-International Personality" at a meeting of the American Society of International Law. At that meeting Jake said: "Political science grew out of the study of international law. We have grown apart, to our detriment, so it is nice to be able to talk to international legal specialists and to learn from them. International legal personality is now a common part of the political science discourse. . . ."<sup>15</sup>

One anecdote drawn from the extensive joint interviewing Jake and I did for our book is worth preserving. We were received by former President Eisenhower on his farm in Gettysburg, Pennsylvania. In the course of the lengthy interview we were struck by the clarity with which the President recalled the details of the test ban negotiations. In a more personal vein, he remembered in vivid detail his weekend visit as a student to Ann Arbor, where his brother was an undergraduate at the University. He recalled not only the name of his blind date, but also the appellation of the river on which the group canoed. "Every young American," he said, "should be able to study in a comparably appealing environment."

Writing at the dawn of the new millennium, Jake stressed the difficulty for a political scientist to find a collaborator among international lawyers: the two areas have become separate disciplines, each with its own goals, jargon and epistemology, methods, ways of thinking, and career incentives. I would point out, however, that with vast new areas encompassed in modern international law, such as human rights, worldwide economic, environmental and criminal law, gender studies, and the growing role of non-state actors, the traditional formulaic positivism has proved inadequate, and new ways of thinking have emerged.<sup>16</sup> Courses on "Law and . . ." now common in major law schools, introduce students to methodologies in other disciplines. An established political theorist, untrained in law, has become a full member of the Michigan Law School Faculty teaching both political theory and American law subjects. In fact, Jake taught successfully at the Michigan Law School as a visiting professor. Interdisciplinary research has become indispensable,

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15. ASIL Remarks, *supra* note 11, at 217.

16. See *Symposium on Method in International Law*, 93 AM. J. INT'L L. 291 (1999).

as demonstrated by Jake's own participation in projects sponsored by the American Society of International Law. In one sense, the need for collaboration across disciplines may have become less pressing: a number of younger academics are trained and able to do research on their own, in more than one discipline. *Tempora mutantur, nos et mutamur in illis.*<sup>17</sup> However, the elementary prerequisites for a fruitful cross-disciplinary collaboration have not changed: personal empathy, common interests, and a perceived need for different perspectives.

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17. A Latin adage: Times are changing, and we change with them.