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Cohen: *The Principles of World Citizenship*

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THE PRINCIPLES OF WORLD CITIZENSHIP. By *L. Jonathan Cohen*.¹ Oxford: Blackwell. 1954. Pp. viii, 103. 10S. 6d.

The title of this volume may be somewhat misleading, but I think fortunately so. Judging from the title, one might anticipate a discussion primarily concerned with some of the technical problems of international law in regard to a world government organization. However, such is not the case. Instead the author tenders a philosophical analysis of two of the chief socio-political problems generated by the complexities of today's international civilization: the necessity for maintaining a proper distribution of power so as to make possible the peaceful resolution of international conflicts, and the difficulties caused by the divided loyalty required to support both the national and international legal systems.

I say the title is perhaps fortunately misleading for it may induce lawyers to read some philosophy. The particular volume under review may not be the final choice as to what philosophical material lawyers should try to digest, but it is intentionally written without recourse to any technical philosophical vocabulary in order to reach an audience much wider than the professional philosophers and does deal with questions which are of peculiar interest to lawyers. In addition, Mr. Cohen may appeal to persons with legal training more than some other philosophers because he is not overly given to flights of fancy into the world of sheer metaphysical speculation. Indeed, some of what the author writes calls to mind a very matter of fact politician instead of a philosopher. For example, we are told (p. 12) that today there is no room for a new theory of political obligation because the only commonly advocated political revolutions are from one to the other of the already established systems. Therefore, instead of trying to find new theories of politics, we have to find the few common "thought-ways" which make co-existence possible.

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Now what is it that Mr. Cohen tries to do and how?

We are forced to argue the merits of various proposals for reconciling our preferences with those of the earth's other two billion inhabitants. Therefore, the focal issues of social philosophy are (1) to what principles can we properly appeal in such arguments, and (2) to what policies do we commit ourselves by such appeal.

There are three principles to which Mr. Cohen appeals. The first is universality; the aim is to find universally esteemed criteria of social policies since such unanimity guarantees that certain policies should be acceptable to all reasonable people. The second principle is consistency. Only those generally accepted "thoughtways" (pp. 7-8) will be used which are consistent with one another. The third general principle for social philosophy is to accept that consistent system of thought which least impedes "reasoned discussion of conflicting social policies."

The last-quoted phrase is the key to much of what Mr. Cohen attempts. He believes that the objective of social philosophy is to facilitate and encourage the reasoned discussion of conflicting social policies and that if the proper method for such discussion is advanced, then "comparatively open minded" or "reasonable" people will be able to co-exist without recourse to violence. The consistent resort to reasonableness suggests a kind of faith in human reason not dissimilar from that often encountered in non-technical philosophic discussion. (Although, of course, there is also a respectable tradition in technical philosophy from which support could be drawn if required.)

A further manifestation of a kind of common-sense philosophy is indicated in the chapter entitled "The Structure of Morality." In this chapter there is traversed terrain familiar to those with some philosophic background but probably of substantial interest to the lawyer audience to whom the volume is also directed. There is presented an exposition and vigorous defense of ethical pluralism. Part of the difficulty in achieving reasoned discussion of conflicts in policy is the failure in the United States and Russia to admit, as does England, the existence of ethical pluralism. Mr. Cohen later reveals one of the important advantages which in his judgment accrues from recognizing the existence of ethical pluralism. It is that such pluralism will help maintain the balance of power required for reasoned discussion of international conflicts. Were one ideology to dominate there would then be an upset of the power balance required to allow all nations to feel that participation in an international organization, like the United Nations, is not hopeless.

Beginning with the third chapter, "Social Description," the tone of the volume under review becomes substantially more legal than philosophic. Mr. Cohen offers a definition of law which would strongly suggest Kelsen, but for the vital fact that for Mr. Cohen's purposes it is not necessary to rely ultimately on force in order to secure conformity to what is called law. Any regulation to which there is compliance, no matter how secured, is law for Mr. Cohen since wherever there are institutionally secured rules there is a situation where there

may be the need for reasoned discussions aimed at changing the rules and hence there is need for the social philosopher. This is indeed an interesting definition of "law" which, if nothing else, does at least demonstrate that the definition of such generic legal (and other) terms as "law" do reflect the purposes for which the definition is sought or advanced. Mr. Cohen is more honest than many. Too often when terms such as "law" are defined, the definer proffers his definition in the belief that the definition is necessary, immutable, and correct.

In the last two chapters, "Loyalty to Law" and "World Citizenship," we come to what are Mr. Cohen's answers to the two questions indicated above as critical for today's "polycentric" community. Such a community is one which, though it lives under a rule of law, is nonetheless "not a sovereign state nor a part of one, nor is any sovereign state a part of it." (p. 48) Medieval Europe exhibited a polycentric structure since there were ecclesiastical, municipal, and royal courts sharing jurisdiction. The world community today is polycentric, it is argued, because there are rules of international law which are respected, yet neither the U.N. nor any other such structure is sovereign nor are the nation states any longer sovereign in the sense that they have complete control over their own affairs. The latter condition is true because the nations have given up part of their sovereignty to the United Nations, the International Court of Justice, and other such agencies. The best that can be said is that today's larger nations do retain domestic autonomy.

By appeal to the three principles mentioned above, generality, consistency, and enhanced opportunity for reasoned discussion, Mr. Cohen concludes that there must be loyalty to law, although a decision as to when that loyalty should cease is not so easily achieved. However, deciding that there need be loyalty to law if there is to be reasoned discussion of conflicting social policies only provokes the even more serious present-day problem of what to do when there are conflicting loyalties. The principle for resolving this predicament, we are told, is that supreme allegiance is owed to the legal system which is most widely administered, when more than a single legal system is binding on us. (p. 70) It is this which is the basic principle for world citizenship. "Citizenship" is not used in a technical sense; rather it is used in order to encourage people to take cognizance of their moral rights and responsibilities in the new world community.

Today, we are advised, a single system of law can be administered throughout the world because of radio and aviation. In addition, although no one national government can protect its citizens from bacteriological or atomic destruction, international control can assure the requisite safety. Because this is so, the author concludes that we owe our supreme loyalty to whatever international law is applied throughout the world and we have the moral duty to prevent violation of that international law. It also follows that we are obliged personally to help enforce international law if called upon to do so by a constitutionally legitimate decision of the U.N. whether it is our own national government or another that is acting "illegally." We are further advised by Mr.

Cohen that we ought to oppose, in our country, those political elements which advocate a policy that may lead to a violation of international law.

Such conclusions no doubt do have a certain appeal, but the appeal of a conclusion ought not to be identified with its soundness. We are told by Mr. Cohen that there is a duty to support that international law which is applied throughout the world, and hence to support the international legal system even as against our national system should there be the necessity for choice. However, if the only international law to which we owe supreme loyalty is that which is *universally* applied, then how could there be any occasion where choice is necessary? If the proper agency of the national legal system even by ludicrously arbitrary criteria justifies its non-conformity to what is alleged to be the international law, then that law is not being applied throughout the world and hence it does not merit our supreme loyalty.

It may be that Mr. Cohen intends us to support that international law which is *generally* applied throughout the world. To use this criterion one need first decide when some pattern of behavior by states has occurred with sufficient frequency to decide that departure from such behavior is contrary to international law. Part of this same difficulty is provoked by the fact if mere frequency of occurrences elevates to international law whatever state conduct enjoys a certain degree of repetitiveness, there would thus be ignored the possibility that an international law may require, in addition, a certain element of "oughtness."

A second practical difficulty with Mr. Cohen's thesis is that individuals would be required to be sufficiently acquainted with what is generally accepted international law so that they can intelligently decide when to resist action by their own state which is thought contrary to the international law. This difficulty is heightened by the fact that "once we approach at close quarters practically any branch of international law, we are driven, amidst some feeling of incredulity, to the conclusion that although there is as a rule a consensus of opinion on broad principle—even this may be an overestimate in some cases—there is no semblance of agreement in relation to specific rules and problems."²

What Mr. Cohen writes is frequently persuasive, for he does manifest philosophically sophisticated common sense, and what is equally rare, writes with a simplicity, ease, and clarity only infrequently encountered in either philosophic or legal literature. However, in avoiding some of the more technical problems of international law which are generated by his conclusions, this reviewer believes that Mr. Cohen has left unanswered too many questions. What makes this important is that the answers to some of these questions may be the conditions precedent to the acceptance of the author's more general philosophic and legal arguments.

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² Lauterpacht, "Codification and Development of International Law," 49 AM. J. INT. L. 16 at 17 (1955):