

# **Shabtai Rosenne Memorial Lecture**

Thursday 24 November 2011  
Academy Building, Peace Palace, The Hague

## Programme

- 5.30 pm Opening – Mr. Alan Stephens
- 5.40 pm Memorial Lecture – Professor Malcolm N. Shaw Q.C.
- 6.20 pm Introduction – Mr. Hans van der Meij
- 6.25 pm Comment – Dr. Daphné Richemond-Barak
- 6.40 pm Closing words – Mrs. Zippi Rosenne
- 6.45 pm-7.45 pm Reception

*Please remember to switch off your mobile phone*

**Professor Malcolm N. Shaw** *q.c.*

is currently Senior Fellow at the Lauterpacht Centre for International Law at the University of Cambridge and has recently retired from the Sir Robert Jennings Chair in International Law at Leicester.

He was previously at the University of Essex, where he was head of the Law Department from 1983 to 1986 and where he founded, and was first director of, the Human Rights Centre. He has also been a Visiting Professor at the University of Paris Ouest, Nanterre-La Défense (2009) and Lady Davis Visiting Professor at the Hebrew University of Jerusalem, Israel (2009). He has also lectured in a wide variety of countries, notably giving the inaugural General Course on International Law at the Xiamen Academy of International Law, China (2006) and the Hersch Lauterpacht Memorial Lectures at the University of Cambridge (2010).

He has written one of the leading textbooks on international law – *International Law (6th ed., 2008)*, Cambridge University Press, 1400 pages – which has been translated into a number of languages, including Polish, Hungarian, Portuguese and Chinese. Other translations, including one into Russian, are currently under consideration. He has also written a book on title to territory in international law, edited three books and written numerous articles appearing in collections of essays and in a variety of publications including the *British Year Book of International Law*, the *International and Comparative Law Quarterly* and the *European Journal of International Law*. He is currently working on a monograph for Oxford University Press (*The International Law of Territory*) and has been invited to edit the next edition of *Rosenne's Law and Practice of the International Court of Justice*.

He is a member of the editorial committee of the *British Year Book of International Law*, and of the advisory boards of *Global Society*, the *International Community Law Review* and the *Israel Law Review*. He is also a Trustee of the British Institute of International and Comparative Law, a founding member of the Curatorium of the Xiamen Academy of International Law, China, and a member of the Executive Council of the British Branch of the International Law Association.

Professor Shaw is also a practising barrister at Essex Court Chambers, London, and has advised a number of states, international organisations and private clients. He has appeared before the International Court of Justice (mostly recently in the *Kosovo* advisory opinion, representing the Government of Serbia), the European Court of Human Rights (most recently representing the Government of Azerbaijan) and all the major English courts.

**Dr. Daphné Richemond-Barak**

holds a Maîtrise from Université Panthéon-Assas (Paris II), a Diploma in Legal Studies from Oxford University, an LL.M. from Yale Law School, and a Ph.D. from Tel Aviv University. She was awarded the Fulbright Scholarship, the European Commission Scholarship, the Hertford College Prize, and the Oxford Prize for Distinction.

Prior to joining the Inter-Disciplinary Center in Israel (IDC) in 2009, Dr. Richemond-Barak worked at the International Court of Justice as clerk to President Judge Gilbert Guillaume and Judge Bruno Simma. She also spent several years in private practice at the New York office of Cleary Gottlieb.

Dr. Richemond-Barak has acted as private counsel for international law firms and as a legal adviser to states, including the government of Colombia in its territorial dispute against Nicaragua before the International Court of Justice. At the IDC, in addition to her teaching, she established and supervised the university's participation in the Jean Pictet Competition in International Humanitarian Law – in which the IDC won first place internationally in 2010 and 2011.

Dr. Richemond-Barak's research has appeared in the *European Journal of International Law*, the *Catholic University Law Review*, the *Hague Yearbook of International Law*, the *Yale Human Rights and Development Law Journal*, among other publications. She is also author of the forthcoming seventh edition of *Rosenne's The World Court: What It Is and How It Works* published by Martinus Nijhoff Publishers.

**H.E. Haim Divon**

is Ambassador of Israel to The Netherlands, having served as Ambassador previously to Canada and Ethiopia. He held other senior diplomatic posts in Sri Lanka and India. As Ambassador-at-Large, he managed post-tsunami operations in Thailand, India, Sri Lanka and Indonesia.

He was Head of Israel's Agency for International Cooperation (MASHAV) and Deputy Director General, Ministry of Foreign Affairs, Jerusalem from 1995 until 2000 and again from 2005 until 2011. As Head of MASHAV he took the lead in designing, implementing and evaluating Israel's international development assistance and humanitarian aid policy and programmes.

As Special Coordinator for Ethiopian Affairs, he led the Inter-Ministerial Committee on "Operation Solomon" – the airlift of 14,000 Ethiopian Jews to Israel.

Ambassador Divon has a Law degree from the Hebrew University, Jerusalem and is a member of the Israel Bar Association.

### **Alan Stephens**

is Director of Research of the Clemens Nathan Research Centre, London. From 1984 until his retirement in 2002, he was Publisher and later Publishing Director of Kluwer Law International/Martinus Nijhoff Publishers.

He read law at University College London, and was called to the Bar at the Middle Temple. He served on the Board of Editors of the *Netherlands Yearbook of International Law* (1975-84), and was Founding Editor of *Religion and Human Rights – An International Journal*. He has given papers at the Henry Dunant Institute, George Washington University, the Australian Institute of Jewish Affairs, NATO and elsewhere, and has been a panellist at the Annual Meeting of the American Society of International Law. He was interviewed on legal topics by radio and television companies in the UK, USA and Australia.

In recent years he has initiated research projects with, *inter alia*, the International Bar Association, the Raoul Wallenberg Institute and the Hague Institute for the Internationalisation of Law, most notably the project which produced the *Lund-London Guidelines on International Human Rights Fact-Finding Visits and Reports*, 2009. He is Professor Rosenne's Literary Executor.

## The Embassy of Israel in The Netherlands

On the 29<sup>th</sup> of November, 1947, The Netherlands voted for the United Nations Partition Resolution for the establishment of the Jewish State and a Palestinian State. In 1949, the country officially recognized the State of Israel, followed by full diplomatic relations and the establishment of the Embassy of Israel in The Hague, The Netherlands. The Netherlands was the first country to send a political representative to Jerusalem.

Currently, the Embassy houses seven divisions: political, public affairs, culture, legal, consular, trade and commerce, defense and police.

During times of conflict, The Netherlands has backed Israel in the United Nations and in many other international organizations as well. The Netherlands and Israel have reached multiple agreements over the years in the field of culture, social security, double taxation, agricultural research and defense cooperation. The Netherlands also represents Israel's interest in the Board of the International Monetary Fund.

The Netherlands represented Israel's interest for almost 25 years when diplomatic contacts were broken between the Soviet Union and Israel. The Dutch Embassies in Moscow and Warsaw helped tens of thousands of "refusniks" to receive visas to leave the Soviet Union.

In the beginning of 1970, Israel and The Netherlands established an agreement for development aid coordinated by MASHAV. For more than 25 years, Israel and The Netherlands have joined hands on development aid.

## Brill/Martinus Nijhoff Publishers

Founded in 1683, Brill is a publishing house with a rich history and a strong international focus. The company's head office is in Leiden, with a branch office in Boston, Massachusetts (USA). Brill's publications focus on the Humanities and Social Sciences, International Law and selected areas in the Sciences. Brill also boasts an extensive catalog of online resources and primary source collections. The Martinus Nijhoff Publishers imprint and international law programme became part of Brill in 2003. A prestigious imprint dating back to the nineteenth century, Nijhoff needs no introduction to librarians and authors worldwide. Its authors are drawn from every corner of the globe and represent all legal traditions. Nijhoff has no ideological, geographical or cultural agenda – its sole criterion is excellence. The Nijhoff portfolio focuses on all subject areas within the field of Public International Law and on International Relations. Its annual publication programme consists of over 20 journals, 20 annuals and some 120 new book titles. Its back-list comprises over 2,000 titles.



**Professor Shabtai Rosenne** (1917-2010)

Possessed of a powerful personality and a towering intellect, Shabtai Rosenne bestrode two worlds. As an Israeli diplomat, he helped shape the institutions of government from pre-state days and remained a person of consequence to his last days. As an international lawyer, his contributions were vast, influential and unmatched. He has been described as one of the foremost international lawyers of the second half of the twentieth century. He mixed encyclopaedic knowledge of the law with a profound understanding of practice. He was the preeminent well-rounded international lawyer. He died aged 92 on 21 September 2010.

Rosenne's inspiration, as his speech accepting the highly prestigious Hague Prize for International Law in 2004 underlined time and again, was the Biblical instruction demanding that "justice, justice shalt thou pursue". He, typically, devoted that speech to the place of international law in the daily life of the average human being. Proud of his Jewish heritage and extraordinarily knowledgeable about it, Rosenne became the supreme international law universalist. His quest for knowledge was insatiable and he formed, for example, a close friendship with Judge Nagendra Singh of the International Court of Justice, based not least upon a shared love of Hindu philosophy. His writings on that Court, including a four volume colossus, made him the foremost authority on its law and practice and it is well known that generations of judges consulted him quietly on difficult questions. He would undoubtedly have been elected a judge had it not been for the political constellation of those years. That, however, would only have made manifest what was already long apparent to observers: Rosenne was the accepted authority on the working of the Court.

Rosenne was born in London on 24 November 1917 as Sefton Rowson. He served in the Royal Air Force from 1940 to 1946, something of which he was very proud. He obtained an LLB from London University and qualified as a solicitor. After the war, he began working for the Jewish Agency and moved to mandatory Palestine in 1947. He served on the committee helping to establish the institutions of the Jewish state and in 1948 became the Legal Adviser to the Ministry of Foreign Affairs, a post he held until 1967. His contributions in that capacity were immense from formulating the armistice agreements of 1949 to dealing with the fallout from the Eichmann crisis in 1960 and from state succession issues in the light of sometimes problematic relations with the former mandatory power to inexorable and sensitive questions of war and peace, use of force and the freedom of the seas. All of this reflected the constant challenges faced by the new state. Thereafter, he served as Ambassador in the UN in New York and in Geneva and in various international organisations. He was a member of the Israeli delegations to innumerable international conferences. His work in the Sixth (Legal) Committee of the UN General Assembly and in the

UN International Law Commission, for example, were renowned. He worked ceaselessly and to the end. On 14 June 2010, he was appointed to the Turkel Commission, the independent public commission established to examine the Gaza Flotilla incident. Although aged 92 and not as physically robust as he once was, his intellect was as strong and as sharp as ever. His contribution to the Report, published after his death, was significant.

But it was not only, or primarily, as a highly distinguished Israeli lawyer and diplomat with unrivalled experience that Rosenne was known throughout the diplomatic and legal world. He was a truly formidable international lawyer and became an internationally acknowledged expert in, and great contributor to, for example, the law of treaties (which he termed the central element of all modern international law); the law of the sea (in which he participated in all the major UN conferences); and, pre-eminently, with regard to the International Court of Justice. His list of publications on these subjects was immense and would have made a full-time academic proud. He was the General Editor of a highly influential multi-volume commentary on the UN Convention on the Law of the Sea and authored books and articles on that subject, he wrote books on the law of treaties and produced a magisterial four volume work on the International Court which ran to four editions. For this alone, he will long be remembered. But for Rosenne, law and practice went together. For all his immense erudition, he was always conscious of the importance of practical problems – the reasons why the law was evolving in a particular direction and the need to tackle questions that needed effective resolution. He was nothing if not supremely realistic in providing advice. He acted for and advised a number of states as Counsel before the International and other Courts and Tribunals. These included the US in the *ELSI* and *LaGrand* cases, Serbia in the *Genocide* case and Japan in the *Southern Bluefin Tuna* case. He also advised in a number of international arbitrations.

Side by side with these achievements, Rosenne was a successful and thoughtful teacher. He gave lectures and was a Visiting Professor at numerous institutions around the world, including the Royal Naval College at Greenwich, and the universities of Cambridge, Utrecht, Amsterdam and Virginia. He gave the General Course on International Law at the Hague Academy of International Law and received many prestigious awards, including the Israel Prize, the Manley Hudson Medal, the Certificate of Merit of the American Society of International Law and the Hague Prize for International Law. He was an honorary member of the Institut de Droit International, the American Society of International Law and the Hellenic Society of International Law.



Rosenne was an intensely thoughtful man who was generous with his time and advice. Not a man for frivolous banter, he drove to the heart of any matter with his potent intellect and extensive knowledge. He was not diffident about putting forward his invariably illuminating insights. Generations of young and not so young international lawyers, fortunately including myself over a number of years, benefited immensely from conversing with him. His prodigious memory allowed him to remind both friends and colleagues of the details of meetings held and agreements made decades earlier and he was not slow at pointing to inconsistencies of opinions expressed, particularly by diplomats, over the long run. He became, in effect, the institutional memory of both the International Court and of the United Nations. These strengths remained with him throughout his long life.

Strengthened and sustained by a long and happy marriage with Esther, whom he married in 1940 and their two sons (Jonathan and Daniel) and grandchildren and great-grandchildren, Rosenne will go down in history, not only as a formative influence on Israel's development throughout its history to date, but also as a great and inspiring international lawyer.

Malcolm N. Shaw Q.C.



## Bibliography of Professor Shabtai Rosenne

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It is hoped that this Shabtai Rosenne Memorial Lecture held in The Hague on 24 November 2011, a little more than a year after Professor Rosenne's death, will be the first of many. Shabtai – as he was known to all – had little time for plaudits or eulogies, but he always appreciated professional and academic excellence. It is therefore our intention to commemorate his massive contribution to the development of International Law and its practice by organising a series of Memorial Lectures on topics, and at locations, which were especially significant in his professional life. The Hague and its Peace Palace had to take priority. There more than anywhere was Shabtai's brilliance displayed, and there more than anywhere were his qualities understood and celebrated.

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Alan Stephens

*Zichron Yaacov, November 2011*

