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## In Pursuit of World Order. U.S. Foreign Policy and International Organisations. By Richard N. Gardner.

Edward McWhinney  
*University of Toronto*

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## BOOK REVIEWS

IN PURSUIT OF WORLD ORDER. U.S. FOREIGN POLICY AND INTERNATIONAL ORGANISATIONS. By Richard N. Gardner. New York: Frederick A. Praeger. 1964. Pp. xviii, 263. \$4.95. Paperback \$1.95.

During the time Mr. Gardner wrote this work, which derives in part from essays published variously in *The New York Times Sunday Magazine*, *The Saturday Review*, and *Foreign Affairs*, he was a member of the Kennedy and Johnson Administrations as Deputy Assistant Secretary of State for International Organization Affairs. He has since returned to his old professorial post at the Columbia University Law School.

As Mr. Gardner himself notes in his Introduction, the character of the book would have been different had he never left the University to become a State Department official. This influence is noticeable in several respects. First, it contains a larger number than usual of what might be called "deferential" citations—the reference to and quoting of assorted addresses, comments and *bons mots* of various political and diplomatic personalities, all of these personalities being important but not necessarily always their quoted opinions. Second, the book is popular, in the sense that it tends to paint its picture in broad strokes, without the moderating nuances of qualifying footnotes or counter-references. Third, and perhaps inevitably, it does tend to be a defence, or at least a reflection, of some U.S. Administration official positions on a number of important tension-issues of contemporary international relations. I think, in this regard, that the second Chapter, entitled "The Soviet Union and the United Nations," may be a little categorical and black-and-white in its presentation and appraisal of official Soviet attitudes vis-à-vis the United Nations. Particularly in his discussion of U.N. Peace-keeping operations and the respective rôles of the Security Council and the General Assembly, Mr. Gardner seems to carry a brief for the erstwhile U.S. governmental position for invoking Article 19 of the U.N. Charter to exclude the Soviet Union and other countries in default in payment of contributions to U.N. expenses levied by the General Assembly: the Soviet governmental position on this issue, after all, was supported by more than a third of the World Court judges who considered the matter (only two of these judges coming from the Soviet bloc), and, since Mr. Gardner wrote, Ambassador Goldberg has announced the final U.S. abandonment of the original U.S. position on Article 19.

I mention these more obvious criticisms of Mr. Gardner's work to set the stage for my affirmative comments. Mr. Gardner is one of those young Americans, in the best tradition of President Kennedy, who has a genuine philosophic commitment to raising standards of wealth and well-being throughout the World and who has the technical training and practical background necessary to implement these objectives in concrete programmes.

After some of the more abstract, and cloudy, Western-based campaigns in behalf of a World government or a World Rule of Law as the universal panacea for all international ills—what a distinguished Soviet jurist recently characterised as “well-meaning but, under present World conditions, pie in the sky,” it is refreshing to have Mr. Gardner’s frank and balanced assessment of the institutional possibilities and limitations for strengthening and extending minimum principles of World public order in the contemporary World Community. He outlines very skilfully the pragmatic approach to questions of international organisation which has led the U.S. Government to be less than enthusiastic about proposals for any conference to review and amend the U.N. Charter. The U.N. Charter, as he rightly points out, is an organic instrument like the U.S. Constitution, and capable therefore of indefinite expansion and adaptation to rapidly changing conditions and expectations in the World Community. It has, in this respect, already changed vastly in the twenty years it has been in operation; and, as Mr. Gardner correctly notes, to insist on formally amending the Charter now to take formal note of these changes and glosses on the original text might be to arrest growth altogether, since many members of the U.N. might be afraid to give explicit endorsement to what they have already sanctioned tacitly, as law-in-action.

Mr. Gardner is at his best when he discusses issues of international organisation affecting World trade, for this is his particular area of specialist expertise as a lawyer and also an economist. I found his penetrating discussion of the 1964 United Nations Conference on Trade and Development, held at Geneva, to be of fascinating interest; for here it was, for the first time really as a matter of general public notice, that the conventional East-West (in ideological terms, Communist and Western) division was sundered, and a new, post-Cold War, North-South alignment emerged with the determining factor, for purposes of adherence to one or other group, being whether one was industrially advanced and economically affluent or whether, by contrast, one was underdeveloped industrially and economically backward and poverty-stricken. Mr. Gardner is aware of the possibilities presented for cooperative Soviet-Western ventures in economic aid and development to the “new” countries in the years ahead, if the current Soviet-Western political-military *détente* should continue and be extended. He is also aware of some of the practical limitations, having regard to the differences in what the Soviet bloc and the West respectively could offer economically and technically to the “new” countries.

Here, nevertheless, is a book optimistic in tone and which, with its emphasis on trade and development, looks across the ideological barriers of the Cold War era that is by now hopefully past, on to the last third of the twentieth century, which must surely have to be an era of increasing political and economic interdependence and cooperation, transcending the limits of the traditional political-military blocs. A clear and thoughtful Foreword by Mr. Gardner’s immedi-

ate superior in the State Department, Harlan Cleveland, enriches the value of this forward-looking work.

EDWARD McWHINNEY  
*Professor of Law and Member of the  
Centre for Russian Studies  
University of Toronto*

HUMAN LAW AND HUMAN JUSTICE. By Julius Stone. Stanford: Stanford University Press, 1965. Pp. xxiii, 415. \$10.00.

This is the second volume of Stone's three-volume revision and expansion of his earlier *Province and Function of Law* (1946). The latter work is subtitled *Law as Logic, Justice, and Social Control*, and in his revision Stone devotes a separate volume to each topic. The first volume, *Legal System and Lawyers' Reasonings*, reviewed in 14 *Buffalo L. Rev.* 347 (1965) deals with the reasoning used in the judicial process and with theories of legal reasoning. The present volume deals with criteria for evaluating law and judicial decisions.

Stone approaches the question of what justice is by examining various theories of justice, some briefly and some extensively. He begins with a short survey of Greek and Hebrew theories, and continues with a lengthy account of various natural law theories up to about 1800. Next comes a chapter on "metaphysical individualism," the idea that the aim of law is to protect the liberty of the abstract individual, with theorists from Kant and Blackstone to McReynolds J. and Hayek given brief attention. Stone then considers the philosophies of Bentham, Ihering, Duguit, Stammler, Kohler, contemporary natural law, Radbruch, and Pound. He dismisses briefly and effectively the claims of language analysis and an intuitionist "sense of injustice" to shed any new light on justice, and devotes a final chapter to his own views on justice.

Although the book is laid out in historical fashion, it is not actually a history of theories of justice. Major figures are either given bare mention or omitted completely: thus Plato and Aristotle are allowed one paragraph each, and Hegel and Marx are omitted completely, although Stone repeats some common misconceptions of the Hegelian dialectic in his discussion of Kohler.<sup>1</sup> Conversely, relatively minor figures like Duns Scotus, Leonard Nelson, Arthur Kaufman, and Werner Maihofer are given detailed and careful treatment. Nor are the latter three discussed merely because of their recency; other recent writers of at least equal importance—Alf Ross, Karl Llewellyn, E. N. Garland, Harold Laski, Kelsen, and Holmes—are not discussed at all or limited to a few sentences, though Stone makes frequent footnote references to their arguments and discusses some of them in Volume 1 or 3. Plainly a selective principle

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1. Pp. 186-87.