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## Myres McDougal and Human Rights

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# MYRES McDOUGAL AND HUMAN RIGHTS

EGON SCHWELB\*

On an occasion like the present, when an outstanding member of the profession of international law is honored by the dedication of the first issue of the *Denver Journal of International Law and Policy*, it is, perhaps, permitted to introduce one's contribution by a personal note.

One evening in the late forties, my wife and I were traveling by train from London to a beautiful suburb in Hertfordshire to have dinner with a well-known London teacher of international law. Although the Second World War was already over, something akin to a blackout was still a feature of British trains. A gentleman entered our compartment and when we had adjusted to the prevailing darkness we could perceive that the newcomer was a round-faced, youngish, friendly-looking American. We started to talk and found that we were traveling to the same destination. I was then working and have continued to work in the field of the international protection of human rights. When I learned that our fellow traveler was Professor McDougal, I was particularly thrilled and delighted, as he had just published what was then one of the most outstanding pieces of writing in my field, the essay, *The Rights of Man in the World Community: Constitutional Illusions Versus Rational Action*.<sup>1</sup>

The chance meeting in a dark railroad compartment was the beginning of a binding friendship with McDougal which I treasure highly and from which I have derived inspiration and encouragement through all these years.

To a superficial observer who is inclined to overestimate geographical factors in the development of a person's social, political and philosophical views, it might be a surprise to learn that a man who is among the country's greatest scholarly champions of human rights and human dignity was born in Burtons, Mississippi and grew up in a small farming town, Booneville, Mississippi. He started his academic career by working as an instructor in Greek at the University of Mississippi during his college years and during part of the time he studied for his Master's degree and for his LL.B. at the same Univer-

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<sup>1</sup> M. McDOUGAL ET AL., *STUDIES IN WORLD PUBLIC ORDER* 335 (1960); also in 14 *LAW & CONTEMP. PROB.* 490 (1949); and in 59 *YALE L. J.* 60 (1949).

sity. From 1927 to 1930 he was a Rhodes scholar at the University of Oxford. This event was an important one in his intellectual life. He studied in Oxford under the great historian of English law, Sir William Holdsworth, who is on record as having stated that Myres McDougal had been his best student. McDougal was greatly influenced by the then Oxford professor of International Law, Brierly, and, later at Yale, by Professor Wesley Sturges.

From 1931 to 1934 McDougal was Assistant Professor of Law at the University of Illinois. Since 1934, he has been on the faculty of the Yale Law School; being named Sterling Professor of Law in 1958. He has also taught as a visiting professor in many parts of the world.

During World War II he served as assistant general counsel of the Lend Lease Administration and as general counsel of Office of Foreign Relief and Rehabilitation Operations of the Department of State. The profession has conferred high honors on him, such as the presidency of the American Society of International Law (1958), and the presidency of the Association of American Law Schools (1966).

In his early career McDougal addressed his scholarship and teaching to municipal law, particularly the law of property; later he became one of the leading scholars in the field of international law. He and Harold D. Lasswell co-founded the New Haven school, a group which adheres to a "policy oriented jurisprudence, postulating as its overriding goal the dignity of man in an increasingly universal public order."

In the present note, I do not propose to deal with the whole system of world public order as propounded by McDougal, but to mention only that part of his work which is devoted directly to the question of human rights. I have already referred to the essay, *The Rights of Man in the World Community*.<sup>2</sup> McDougal and the co-author, Gertrude C. K. Leighton, were among the first scholars to investigate, contemporarily with Lauterpacht's writings on the subject, the potential of the human rights provisions of the United Nations Charter. They assembled the arguments for more vigorous participating and leadership by the United States in the human rights program of the United Nations. In a period which was to become characterized by the move for the Bricker amendments to the United States Constitution, McDougal and Leighton demolished the arguments presented by spokesmen for the

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<sup>2</sup> *Id.*

American Bar Association against the United States becoming a party to international human rights instruments. Theirs was both a work of brilliant scholarship and a call to arms. Well documented and argued pleas by McDougal for "an international law of human dignity" became a substantial part of his comprehensive writings in the fifties and sixties. Recently, McDougal, Lasswell and Lung-chu-Chen prepared "a framework for policy-oriented inquiry" on the subject of human rights and world public order.<sup>3</sup> I have no doubt that the "framework" will be filled in the near future, and a great standard work will be placed at the disposal of the profession of international law.

The profession's best wishes to Myres S. McDougal, personally and for his future work, are more than justified.

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<sup>3</sup> 63 AM. J. INT'L L. 236 (1969).

