

Books

HOW NATIONS BEHAVE: LAW AND FOREIGN POLICY, 2ND ED.

by Louis Henkin

(Columbia University Press/Council on Foreign Relations; xv + 400 pp.; \$25.00/7.00)

THE QUEST FOR SELF-DETERMINATION

by Dov Ronen

(Yale University Press; xiv + 144 pp.; \$15.00)

William V. O'Brien

Louis Henkin and Dov Ronen are both comparing prescriptions about how nations and other international actors ought to behave with how they actually do behave. Henkin's "ought" is that of the dedicated international lawyer. He contends that international law not only ought to be observed but that it is an important, integral component of the foreign policy processes of nations. Henkin undertakes to prove that this is the case, mainly with respect to U.S. practice, in a second and greatly improved edition of *How Nations Behave*.

Henkin knows that traditional, Western-grounded international law is challenged by the East-West ideological

conflict and by the increasing impact of Third World states, which have overwhelming voting majorities in international conferences and organizations. He concedes the difficulties of maintaining and expanding the gains of international law made by the developed Western nations, but nonetheless concludes that this body of law is in fact surviving and developing. He argues that this is true in terms of international behavior, even with respect to the most difficult and political of all subjects, the law governing recourse to armed force (which I shall refer to by the traditional designation, the *jus ad bellum*).

Henkin claims that the essence of the modern *jus ad bellum*, the renunciation of the threat or use of force embodied in Article 2(4) of the U.N. Charter, has been vindicated by post-World War II history. This period has not been characterized by interstate, that is international, war. To be sure, mixed internal-international conflict has abounded, but Henkin believes that the prevention of the interstate conflict is a significant achievement. He is realistic enough to acknowledge a number of reasons for this decline in international conflict, of which fear of nuclear escalation is obviously foremost, but he insists that respect for the *jus ad bellum* regime of the U.N. Charter is an impressive factor in abstention from war.

One is left with doubts. In the first place, if one subtracts from the total occasions of potential war all instances in which war was avoided because of nuclear deterrence and then goes further and subtracts all cases in which the safer, less provocative (but nonetheless deadly and illegal) means of indirect aggression camouflaged by internal war were carried out under the nuclear umbrella, the remaining sample of potential wars prevented by respect for international law may be modest. Second, in a book that holds out the prospect of examining state behavior, it is lamentable that a more serious attempt is not made to illustrate cases in which war, seriously contemplated, was eschewed.

Henkin does, in fact, attempt to show the restraining influence of international law in three brief studies of the use of force: the 1956 Suez Crisis, the Cuban Missile Crisis, and the U.S. intervention in Vietnam. He addresses the question of the effect of legal restraints by arguing that a state could respect but nevertheless decide to override these restraints in virtue of a calculus of probable benefits and costs. Thus, Henkin claims that the British and French calculated poorly in 1956 but were called back to sanity and respect for the law by the combined influences of a hostile Soviet Union and a law-abiding law-enforcing ally, the United States. In the Cuban Missile Crisis, respect for the law resulted in the least use of force contemplated. In the Vietnam war, Henkin is heartened by the seriousness of U.S. legal arguments.

Still, these analyses are highly limited and impressionistic. One has no sense of the totality of situations in

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which the United States, since it is the principal source of examples, resisted the temptation to use the military instrument in substantial measure out of respect for the *jus ad bellum*. There remain, of course, all of the other actors in the international system. Henkin remarks on the paucity of old-fashioned international wars since 1945 (like those between India and Pakistan and Israel and the Arab states), but he does not indicate the identity or magnitude of other such potential wars that were prevented (prescinding from those deterred by fear of nuclear escalation or substituted for by indirect aggression through internal wars).

Henkin's claims for the *jus ad bellum* may be substantially valid. His problem is that having persisted in using the provocative title "How Nations Behave" (rather than "How Nations Ought to Behave"), he lays himself open to expectations of empirical evidence that he does not produce. Other parts of the book are devoted to the international law of peace, international economic law, the law of the sea, and human rights. Here Henkin surveys trends but does not seriously advance the effort of the *jus ad bellum* sections to prove that the law is a critical determinant of the way nations behave. In brief, Henkin reveals more of himself, as a compassionate human being and dedicated international lawyer, than he does of nations and statesmen in his effort to relate the "ought" of international law to the reality of international behavior.

Dov Ronen, in *The Quest for Self-Determination*, is more successful than Henkin in relating an analysis of international behavior to a normative "ought." It is widely, near universally, assumed that the "self" in the self-determination that is normatively enjoined and frequently invoked is a corporate group self, a "nation," a "people," or a "minority." Ronen asserts, however, that the drive for self-determination, first realized in the French Revolution, is based on the aspirations of the individual human being to be free from alien rule. This drive, says Ronen, is directed to a particular identification with an "aggregate group" perceived by the individual as an "us" contrasted with an alien "they" group that stands as an obstacle to the individual's quest for freedom and self-fulfillment.

Ronen argues that the individual drive for self-determination has been

activated by varying situations and opportunities resulting in five different manifestations at differing times and places: nineteenth-century European nationalism, Marxist class self-determination, Wilsonian self-determination for minorities, contemporary African and Asian decolonization, and contemporary ethnonationalism or subnationalism (instances of the last are Basques, Scots, Biafrans, Québécois, Bengalis, and Palestinians). He argues forcibly and with serious evidence that the "aggregate groups" involved in the battles for self-determination are not "natural" or "objective" or "perpetual" selves. They are the appropriate vehicles for

activating the self-determination drives of human beings perceiving themselves to be in a we-they situation.

Ronen observes that virtually all thinking about international relations has rested on the assumption that the present international system of sovereign states will continue indefinitely. Accordingly, prescriptive speculation has centered on nation-building, modernization, and development as the indicated lines of improvement for the units within the system, and on integration and transnational union as the self-evident norm for the future. From Ronen's very different perspective, the status quo (particularly its central fea-

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ture, the sovereign nation-state) is challenged by disintegrative forces of self-determination that may bring us a world with independent identities such as Quebec or Scotland or a Palestinian state. But this is not incompatible with the integration that may link such ethnonationalist entities, as well as more traditional states, with larger economic and normative combinations as indicated by integrationist trends.

Ronen's analysis emphasizes "is" over "ought." He contends that the international system and its component elements can best be explained by his exposition of the nature and operation of self-determination. One is left uncertain as to how committed he is to the normative "oughtness" of his concept. He appears to be very committed. Ronen's next task is to elaborate the origins and nature of the right of individual self-determination and the right to pursue it through many aggregate groups, as balanced against whatever community or corporate rights such groups may rightly claim.

William V. O'Brien is Professor of Government at Georgetown.

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LITERATURE AGAINST ITSELF: LITERARY IDEAS IN MODERN SOCIETY

by Gerald Graff

(University of Chicago Press; 260 pp.; \$15.00)

Martha Bayles

...Then a ragged urchin stepped out from the crowd and said in a clear voice. "Look, look. The Emperor's not wearing any clothes."

To those of us who have been hanging on the corner watching the latest in advanced fiction and literary criticism parade by, Gerald Graff is that one clear, welcome voice. Unlike the urchin who just points out the obvious, Graff sets himself the further task of unraveling the whole hoax, warp and woof. *Literature Against Itself* explains and refutes an impressive number of literary ideas in an impressively short time, showing that in most cases a literary idea is a perfectly good idea from somewhere else, down on its luck because the literary intellectuals have got hold of it, usually by the throat.

From structural linguistics, for instance, the idea that the forms and sounds of words bear no necessary relation to their referents has fallen into

the hands of such structuralist critics as Roland Barthes, Jacques Derrida, Geoffrey Hartman, and J. Hillis Miller, who stretch it to absurdity. Graff writes:

"From the proposition, unexceptional in itself, that no signifier can mean anything apart from the code or sign system which gives it significance, one infers the conclusion that no signifier can refer to a nonlinguistic reality—that, as Perry Meisel puts it, 'all language is finally groundless.' There is, then, no such thing as a 'real' object outside language, no 'nature' or 'real life' outside the literary text, no real text behind the critical interpretation, and no real persons or institutions behind the multiplicity of messages human beings produce. Everything is swallowed up in an infinite regress of textuality."

From the philosophy of science, the idea that truth is a function of intellectual "paradigms" that may or may not correspond with the ultimate nature of reality gets carried to the extreme of saying reality doesn't exist, and all our statements about it are equally "fictive structures," "shadowy manifestations of the ego." And from fiction itself, the fictive status of characters and plot elements gets extended first to theme and