An Old Judge Remembers

Gunnar Lagergren

Introductory Note – The Career of a Great International Jurist

*George H. Aldrich**

Gunnar Lagergren has performed many notable functions in the course of the twentieth century, most of which resulted in significant contributions to international law and, in particular, to the settlement of international disputes. As an arbitrator, he handled a number of important cases, including that between India and Pakistan concerning the *Rann of Kutch* and the *Taba* boundary arbitration between Egypt and Israel. He served with distinction on a number of important tribunals, including the European Court of Human Rights at Strasbourg and the Iran-United States Claims Tribunal at The Hague, where he was its first President.

Judge Lagergren's persona is larger even than these accomplishments – a fact that emerges from the following translation of a recent interview he gave that was published in his native Sweden. In 1981 the American and Iranian members of the Iran-United States Claims Tribunal met in The Hague to select the three chairmen. All three whom were selected were distinguished judges, and one had been the Premier President of the French Cour de Cassation, but there was never any doubt that Gunnar Lagergren would be the President. At that time, he was the Marshal of the Realm in Stockholm and a man who projected almost a visible aura of authority – a vital quality in a mixed tribunal charged with the difficult and delicate task of deciding claims and disputes between Iran and the United States that arose out of the 1979 Islamic Revolution in Iran.

Judge Lagergren's review of his career in international law is both a personal account of his fascinating experiences during the last six decades of the twentieth century and an inspiration to those beginning careers in international law at the opening of the twenty-first century.

---

* Judge, Iran-United States Claims Tribunal; Professor Emeritus of International Humanitarian Law, Leiden University.

15 Leiden Journal of International Law 307–322 (2002)

AN OLD JUDGE REMEMBERS[1]

I was born 23 August 1912 in Stockholm. After passing my high school university entrance exam I first studied mathematics, philosophy, and political economy and after that took up law studies. I had completed my university studies in 1937 and followed them up with district court training. In 1940 I began my real career as a judge at the Svea Court of Appeal in Stockholm.

1. In December 1943 the Svea Court of Appeal had a visit from the Swedish Minister in Berlin, Arvid Richert. He was looking for a new head of the B Section of the bombed-out legation, the section entrusted with Sweden's obligations as a "Protecting Power." He discussed the matter with Birger Ekeberg, President of the Court of Appeal. The outcome was that I was offered the post in Berlin. I replied that I was getting married within a week's time and that I had plans entirely different from going to war-time Berlin. After consulting with my fiancée, Nina von Dardel, we nevertheless decided to go. Nina would be allowed to come with me in spite of the fact that in all cases wives and children of the legation personnel were not permitted to be there.

Sweden's part of the mission concerned Dutch interests and also Argentinean, Mexican, Soviet Union, and after some time also Finnish ones. Naturally the major job was the Dutch task, seeing that even before the War some 400,000 Dutch people were resident in Germany and many of them wished to continue living there. The business of a section like ours was handling urgent consular matters. For instance, we were expected to assist Dutch people with getting the validity of their passports prolonged and with documents concerning things like marriages, deceased persons' estates, divorces; furthermore, we were expected to provide assistance at trials in case a Dutch person was arrested, we would have to see to it that he was supplied with legal counsel. We also contributed cash help to many people in distress who came our way. The Protecting Powers, of which we were one, and the International Red Cross also regularly visited prisoner-of-war camps where there were prisoners from countries that had accepted the Geneva Conventions of 1929 in the matters concerned. The Soviet Union was not one of them. For civilian internees there were no well-defined rules on how to go about doing the job, but it was possible to succeed if you knew that a certain person was in this or that camp. You could then get in touch with the person in question, send him or her food and even send on mail. On the other hand, there was no access to the annihilation camps situated in Poland.

In Berlin 1944 was a difficult year. At night-time the British did the bombing and in the day-time the Americans, and this happened fairly reg-

1. A revised version of the interview article "From Court to Court." *Gunnar Lagergren minns i samtal med Arvid Lagercrantz*, *in* Personhistorisk Tidskrift 4–30 (2000), translated by Erik Frykman.

ularly. Richert had had a proper bunker built in the Legation grounds, one that might not have withstood a direct hit, but which in other respects was satisfactory, containing several rooms. Richert had also rented a small palace, Alt-Döbeln, between Dresden and Berlin, where we were supposed to spend the nights. This meant that every morning you had to travel some 110 km by bus or car and the same distance back. Nina was often with us in Berlin since as the only wife present she was responsible for the soup kitchen for the personnel and for Swedes passing through or in need of help. Naturally we sometimes stayed on overnight in Berlin and then at the Dutch legation which was still intact. We had an office available there and also some rooms, and when alarms were sounded you got dressed and made your way to the Swedish bunker. En route we would meet large numbers of Germans on their way to the large public bunkers with their necessities. And then the bombs, and one could feel the ground shaking. When the attack was over and you got out, you were met with a far from pretty sight: a great many houses were on fire in dense smoke and people were shrieking, children not least. The city was after all more or less in ruins by this time and like a ghost town. It was the worst on moonlit nights when you saw the ruins and heard roof-tiles clattering and shutters whining. It seemed unreal.

When the Allies were about to do carpet-bombing they threw down what the Berliners called '*Weihnachtsbäume*,' Christmas trees. The bombs were supposed to hit the ground between them. If you were then in your car within such an area, you stopped and tried to get in under some bridge or you lay full length on the ground. There were no doubt occasions when we were afraid and my car, when I went round in it to the prisoner-of-war camps, was shot at at least twice in spite of the fact that we had a Swedish flag painted on the roof. On one of these occasions the machine gun shots hit the ground in front of the car and the second occasion was likewise a miss. I had then darted into a farm for shelter. It was anything but pleasant.

We were not quite aware of the extent of the danger and we were young and in good spirits. We were newly married and this was something quite different from reporting on lawsuits in a Swedish court. And perhaps the attention bestowed on us had its attractions. After a while our premises in central Berlin were bombed out and disappeared. The B Section then moved to Wannsee. The premises there were also bombed and burnt. I then provided myself with a small manor house in the vicinity of Richert's palace and installed myself there with the whole staff. We may have been some forty or fifty all told.

At Alt-Döbeln Richert was naturally the great leader with a private table and valet in the dining room. The rest of us were invited to join the minister at table from time to time. However, Colonel Dannfeldt and I after some time moved to independent smaller houses in Caputh, just outside Berlin. From our gardens we could then also watch the bombardments over Berlin ('Great-Caputh'). On one occasion, when my brother-in-law, Air Commo-

dore Folke Barkman, was visiting us, we found a dead pilot in the garden in the morning.

I had no contact with the top-level political VIPs in Berlin, but often did with the head of the legal department in the Auswärtiges Amt and with the chief of protocol, who among other duties assisted us with the maintenance of the legation buildings of the countries that it was our job to represent. It was he who besides saw to it that the not very numerous diplomats still in Berlin could get together. We often met at the Adlon Hotel, which remained unscathed at least during the whole of 1944, when I was in Berlin.

During that year in Berlin we were also visited by Nina's half-brother, Raoul Wallenberg. He had been entrusted with the important task by the Swedish Government – and even President Roosevelt was behind the scheme – of going to Budapest to try and save the Hungarian Jews. The majority of the countryside people had already been sent to Auschwitz, but some 300,000 remained in Budapest. Raoul came to Berlin on 7 July 1944 and was going to stay for two nights in Caputh, we reckoned, but he was anxious to proceed on his mission and so stayed only overnight. There was an air raid that night as well, but we were in the basement. Raoul was very much committed to his task and he was a person rich in ideas, enthusiastic and brave, highly gifted and an efficient organiser. In perspective it is justified to say that he was the right person for the difficult task entrusted to him.

When our eldest child, Nane, was born on 14 October 1944, I rang up Raoul in Budapest to tell him that now his sister and I had had our first-born. But after that I did not hear from him, so that was the last time I had the possibility to reach him again. His destiny remained a great tragedy for the whole family. So it was important for me to be the first chairman of the Raoul Wallenberg Institute of Human Rights and Humanitarian Law at Lund. Nane, by the way, is nowadays the wife of the United Nations Secretary-General Kofi Annan.

2. When the war was over, I was one member of a large rescue operation. There was, needless to say, in the countries that had been occupied by the Germans, a terrible shortage of everything, and Rädda barnen (Save the Children) was to organise a large convoy with Hungary as its destination and due to leave in February 1946, in other words a fairly short time after the end of hostilities. We were going with 30 lorries carrying 200 metric tons of medicines and foodstuffs; we were some sixty or seventy people in all. We knew that it would be difficult to get there and it turned out to be immensely difficult owing to a snowstorm followed by flooding, with the result that the cars lost touch one with the other and one lorry overturned. Immediately Germans emerged and tried to grab margarine, which perhaps was pardonable. However, American occupation soldiers soon arrived and helped us to retrieve what had got lost. Many bridges had been destroyed during the war, others by the flood.

But we got to Vienna and from the border with Hungary right along

the way to Budapest there were schoolchildren waving flags and it was a great joy to take part in the handing over of the goods. A contributing factor to my participation in the expedition was of course that I wished to get hold of more information about Raoul's fate. But although I saw several members of the government I did not get to know anything worthwhile.

3. After Berlin I went back to work at the Court of Appeal. But there was time for other activities as well. The International Chamber of Commerce had its headquarters in Paris. It carried on extensive arbitration activities concerning international conflicts, and when the parties could not agree on the choice of a chairman they applied to the national committees in different countries for suggestions. When Sweden was asked I was often suggested, so I went to Paris repeatedly as arbitrator. There I also became familiar with the other activities of the International Chamber of Commerce and for some reason I established contact particularly with a group whose business was international trade terminology for freights, things called 'fob' and 'cif' etc. I became a member of that group and after some time its chairman. We published a collection of definitions of these terms, 'Incoterms.' All the time I was also nominated as an arbitrator. We had meetings in many different places, such as Copenhagen, Zurich, London, Cologne, Düsseldorf and Vienna. The result was that I got colleagues and friends in several countries, one thing leading to another.

It was considered important to meet in a place where the arbitrators could also have a good time together, preferably a city with musical activities, ballets and restaurants with good food. We were therefore often in Copenhagen and through my acquaintances we could sometimes have recourse to premises in the Court of Appeal, once even in the Supreme Court.

4. On one occasion I was summoned to the Wallenberg Institute for Legal Research whose chairman was Birger Ekeberg, President of the Svea Court of Appeal, and where the then Foreign Secretary Östen Undén was one of the members. Ekeberg told me he had heard that I was busy with commercial terminology and that it would be of interest if I could write something containing a comparison of the signification of the terms in different countries, for example a comparative study in English. I expressed my gratitude for the offer but said I thought I would be uncomfortable carrying out research by myself in my own study. So then Undén says, "But my dear judge, you could spend one year in Rome and one in Paris," a temptation I just could not resist. So off we went to Rome with our three children and had a wonderful time there.

I don't think I accomplished all that much during that year apart from accompanying Nina. She was interested in art and taught me a great deal, and I had to make up for my laziness when we were in Paris, where we rented a house in Versailles. In the end I produced a book on law on sale.

5. The next thing was a post as a judge in Tangier. Gibraltar was of course British and Tangier is on the south side of the Strait of Gibraltar.

In 1905 the German Emperor William II had worried the British by visiting Tangier and in 1911 he had sent a gunboat to Agadir, also situated in Morocco. As a result Britain wanted to neutralise Tangier and make it into an international city. Several important states supported the British proposal and after delays caused by the 1914–1918 War the project was ripe for being carried into effect in 1925. A government had then been set up, consisting of the consuls-general of 10 to 12 countries and an international administration. There was also an international police force and an international court to deal with all kinds of lawsuits except the purely Moroccan ones, *i.e.*, a Moroccan versus another Moroccan.

It was Undén who rang me up in 1953 to inform me that there had been a change of regulations in Tangier, implying that Sweden as well would be entitled to have a judge in the international court and he asked me if I would think of going. I found it interesting, so without even knowing exactly where the place was I agreed. When I came home and told Nina about it she said she thought it was wisely done; so in due course off we went with all our three children, who could all go to an American school.

Tangier was at times a paradise, warm and sunny, but in between also subject to strong winds. Apart from Arabs and Berbers all sorts of people lived there, for instance a number of rich bohemians – there was no real taxation there – among them Conan Doyle and Barbara Hutton and those kind of people whom we never got acquainted with; but there they were. In the court, consisting of two instances, the official languages were French and Spanish. I was there between 1953 and 1956.

6. In 1956 I was rung up from the Swedish Embassy in Bonn and informed that a court was to be established in Koblenz, the Arbitral Commission on Property, Rights and Interests in Germany. It was to handle lawsuits dealing with the restitution of, or compensation for, property that the Germans had taken from occupied countries. The set of regulations was difficult to interpret. The court was to have judges from the three great allied countries and an equal number of German judges. They also wished to include three neutral judges and the idea was that the castle in Koblenz would provide the premises. I accepted without giving the matter much thought.

I served for a good ten years in Koblenz. But it was not a question of full-time service; as a rule I was at home or busy with other assignments for three weeks and was then three weeks in Koblenz. Thanks to these weeks my family became an increasingly important part of my life and I remember how I often sat working with all the children playing round about me. By that time we had four children, the youngest having been born in Tangier.

7. The Saar has of course often been a problematic area. In 1957 a court was to be established there to deal with certain left-over questions. There should be only German and French judges and in addition three neutral ones. As chairman was chosen the eminent Italian Roberto Ago. We were

first given a splendid dinner at the French Foreign Office in Paris. A special carriage was laid on for a train to Bonn where we were also treated to an exquisite dinner, for equal treatment was the rule and was considered very important. Afterwards we went to Saarbrücken, not the most engaging of cities. When it snowed, the snow was black rather than white owing to all the smoke from the nearby industrial plants. After the inauguration we were agreed that we would not write our rules of procedure in such a place. Such things take time after all, and even if no lawsuit should arise, this had to be done. So we decided to go to Geneva, and there we could use the famous Alabama Room in the Town Hall, a place I was later to return to several times. But there was never a single Saar case in our court.

8. Early on the victorious Western Allies were anxious to secure the restitution of property that, through persecutions, had been unlawfully appropriated, *e.g.*, real estate, business firms, works of art, other personal property and bank accounts. If the property had been lost compensation was to be paid. The Western Allies therefore drew up restitution laws each one for their respective occupation zones, including West Berlin. In 1957 these laws were replaced by uniform West German legislation. To deal with this wide-embracing and often complex programme the ordinary German law courts, in their first and second instances, were made use of, but instead of the German Supreme Court two Supreme Restitution Courts were established, one in Herford (later on in Munich) and one in West Berlin. In them Allied and German judges cooperated under the chairmanship of neutral presidents. I served in Herford and Munich during close to 27 years (1964–1990) and Swedish judges were engaged in West Berlin as well.

The total number of claims presented before the Allied and later on the German authorities will have comprised some 1,200,000; 4,000 and 7,000 claims were heard by the highest instances in Herford/Munich and West Berlin respectively. It was remarkable and gratifying that in both the highest instances the judgments were practically always unanimous! As compensation for unretrieved property the German state paid circa 4 billion German Marks. It can be added that the former German Bundeskanzler Helmut Kohl announced some time ago that the Bundesrepublik Germany paid out 120 billion German Marks for Nazi '*Unrecht*.'

9. In 1964 I had an arbitration proceeding in Somalia. The background was that Somalia had become independent and it turned out that the harbour establishments in the capital belonged to an Italian company. They were nationalised and the Italians naturally wanted compensation for them, so the amount was to be decided through arbitration. I was elected chairman and there was also a judge from Italy and one from Somalia. I went to Nairobi and then flew in a very rickety sports plane to Mogadishu, landing on something best described as a poor football ground. It also turned out that the city had only one single air-conditioned hotel room which I managed to claim.

It was the first time that Somalia had an international arbitration, and we were therefore supposed to meet on the premises of their supreme court and I was expected to address the Parliament on the importance of international arbitration. We went to have a look at excavators and cranes and suchlike to try and assess their value. When we were going to deliberate we had nowhere else to meet except in my hotel room. So there we sat, three judges and a female secretary, on my bed trying to formulate an award which was later on pronounced on the premises of the supreme court. Later on I was told that the sum we had decided on was paid by Somalia.

10. It was in 1947 that the Indian sub-continent was divided into two states. The boundaries were not invariably very clear and the whole thing happened in some haste. A contested region was Rann of Kutch near the Indian Ocean between Bombay and Karachi. The parties – India and Pakistan – believed there were oil wells and as a result there were constant discussions and disputes about this region. This led to a war that started in the spring of 1965 and went on for three months. The British Prime Minister at that time, Harold Wilson, then intervened. He said words to the effect that now I feel you have tested your new arms enough and this war will get you nowhere, so I suggest that instead you have recourse to arbitration; and the parties agreed. The result was an armistice agreement and it was decided how an arbitration tribunal should be constituted.

To begin with the parties were expected to try and solve the conflict between them through negotiations, but as I have found in many similar situations it led to nowhere. The parties were then prepared to submit the conflict to arbitration whose judgment is binding and no government will then be able to say that they had ceded a region in an irresponsible manner. In December 1965 U Thant rang me up at home in Djursholm at 3 a.m. and told me he was the Secretary-General of the UN! He asked if I would take upon me to chair a tribunal in the conflict between India and Pakistan. I replied that, well, this was the middle of the night but that I am sufficiently well-mannered to say that if the UN's Secretary-General requires my services within my special field I cannot turn the suggestion down but accept it. As luck would have it, I had sufficient presence of mind to add a request for using the UN palace in Geneva for the arbitral procedure. There were plenty of premises there and likewise personnel and other facilities and he agreed to it.

U Thant then brought up the matter of my fee, but I told him we might come to that in due course and again he agreed. A short time before, the Indians had appointed an arbitrator, namely Aleč Bebler of Yugoslavia. Pakistan chose an Iranian called Nasrollah Entezam. Both gentlemen knew each other well from the UN and both had been in the Security Council, Entezam had even been president of the General Assembly. They were two well-educated and capable persons. As secretary I chose the very able and loyal lawyer Dr Gillis Wetter, who was later on to assist me in several lawsuits. My opinion was that this was a question of getting off to a rapid

start, so I summoned the parties to a meeting in Geneva as early as February 1966 and we had an opening ceremony in the Alabama Room. There the successful first international arbitration procedure had taken place in 1872 between Britain and the United States and in the same room the International Red Cross had come into existence.

The fact is that an arbitration procedure between two states has long been a 'tradition of glory,' which implies premises rich in tradition, and diplomats, journalists etc. were invited to take part in our ceremony. The continued deliberations took place behind closed doors, but the opening ceremony was a public affair and was given publicity in the press. We then retired to the UN palace and during a couple of days met to decide how we should organise the procedure and how the exchange of documents should be handled. In conflicts of this kind there is no plaintiff or defendant, the parties being on a par with each other. Both are desirous of a solution of the conflict. The documents are simultaneously handed in by both parties whereas the question as to who shall begin the oral proceedings is decided by casting lots.

At the exchange of documents I was personally present together with Wetter on every occasion in Geneva and the deliberations then started in September 1966. Both countries arrived with large delegations, not only lawyers but historians, military, diplomats, cartographers, etc. Everybody of course thought it was pleasant to be in Geneva for some time and many were friends of the pre-1947 period and now had a chance to meet again. Some had for instance been university students in England.

The parties did their pleadings and presented their documents and maps and the whole procedure lasted for no less than 170 days. We met into the following summer, up to 14 July 1967. Everything was tape-recorded and altogether there were 10,000 pages of minutes. We then parted after completed pleadings. We went back home our separate ways to think the matter over.

Rann of Kutch was a desert one half of the year and flooded during the other half. As a result one of the countries wanted to apply a kind of maritime law and the other land law. So we had to be extremely cautious when we discussed this area. So as not to be biassed we talked about "the delicious fish" while at the same time mentioning "the wild donkeys." It was incontestable that the southern half of Rann of Kutch belonged to India. Pakistan wanted the northern half, but so did India. The contested northern part comprised circa 3,500 square miles.

After some time we returned to Geneva and it then appeared that Bebler voted for what India had claimed whereas Entezam wanted to follow what Pakistan claimed and my own line lay somewhere in between. I then said that if nothing else has been determined there must be a majority because otherwise there cannot be a judgment. Sometimes it is possible to come to an agreement in advance and to say that if there are three opinions the chairman's decision applies; but that had not been done in this case, so a majority decision was necessary.

We went back home and thought it over and did some further study, and we returned, but things turned out as before. My colleagues voted only for the countries that had nominated them and I kept to my intermediary line. When we came to Geneva for the third time the situation was becoming critical. We could not go on like this. Things remained unchanged and no one had compromised with their earlier stance. However, one evening Entezam rang me up to say that this was his last great assignment in life and he did not want it to be a failure, so he concurred with the chairman's opinion provided his original opinion be included in the award. I replied that there were no strict rules for the drafting of awards and that we might manage it by first including Bebler's line in the award followed by Entezam's preliminary opinion and thereafter my proposal followed by Entezam's statement that after having read "the Opinion of the Learned Chairman" he concurred with and endorsed it.

In the end, then, two versus one. The judgment implied that India was given almost 90% of the contested area and Pakistan 10%. Pakistan accepted the terms, but the Indians started disturbances. There were demonstrations both around the district and in New Delhi, but finally Indira Gandhi intervened declaring "that we had decided in favour of arbitration and we must then also accept the award." What we had done was to have studied boundary marks and maps, statements by diplomats and several other things, and this in itself made the Indians entitled to the whole district. However, it appeared that the Pakistanis had made use of the district for their cattle, their police had interfered if anything had happened, etc., and this was such a strong expression in favour of sovereignty over these areas that it outbalanced the Indian material. As a result Pakistan was awarded 10%. The judgment was then delivered, again with much ceremony. The parties were thereafter to stake out the new boundary, which was circa 400 km in length. About 850 boundary pillars were put up and tall poles had to be used so as to be visible above water level at the time of year when Rann of Kutch was a lake. Anyway, the parties had made a good job of it and the whole dispute ended with a ceremony in the Svea Court of Appeal on 22 September 1969.

As a motto for the procedure I had launched the notion of 'friendly arbitration' and this became a leitmotif also in my continued activity in arbitration cases. It appears clearly from the *Rann of Kutch* case how important the choice of chairman is and accordingly the parties often find it difficult to reach agreement on that point. In this case it was the Secretary-General of the UN who was to appoint the chairman if the parties could not agree. The situation is considerably different if there are to be three neutral judges and only one judge from each country, which was what happened in a later arbitration case concerning Taba.

11. In 1966 I was appointed president of the Court of Appeal for Western Sweden but was prevented from taking up duties immediately. The *Rann of Kutch* case could not be interrupted, so I had to have a stand-in until that case was finished. But after that I was stationed in Göteborg

for about ten years, a happy and pleasant period. I enjoyed being head of this large court of appeal, and our circuit extended all the way from the north of Värmland down to Halmstad. I liked to visit my 17 district courts and I also took part in court of appeal proceedings elsewhere when desirable. But simultaneously I carried on international activities. As president of the court it was comparatively easy to arrange leave of absence in a reasonable manner. However, I had to interrupt my office prematurely when I was appointed Marshal of the Realm; but I will come back to that.

12. At the entrance to the Persian Gulf there are three small islands, Abu Musa and the Greater and Lesser Tumb. These islands were under British protectorate, but on 30 November 1971 the British were to hand over the islands to the Arabs on the Western side of the gulf. However, the day before, while the British were still there, the Iranians occupied the islands. The British troops offered no resistance since they had already got their arms packed. Colonel Khadaffi in far-away Libya became so furious because Arabs were the sufferers by this inactivity on the part of the British that he confiscated the BP's large oil concession in Libya. This led to the application of a provision of arbitration between BP and Libya.

Khadaffi would have nothing to do with an arbitration procedure and refused all contacts. In that situation and in accordance with the arbitration agreement I was then appointed sole arbitrator in the case by the president of the International Court of Justice. I decided that we should meet in Copenhagen and there the case was carried through in the absence of the defendant. It was an unfortunate situation, but of course you cannot let a case be dropped just because one party fails to attend. I tried to imagine what Libya's delegate would have said if he had been present. It was pretty difficult to be sole arbitrator, so I provided myself with two Swedish jurists, as secretary and adviser, Dr Gillis Wetter and Prof. Jan Sandström.

When the proceedings were finished, I decreed, in an interim decision of 10 October 1973, that Libya had, in an unlawful and discriminatory manner, nationalised the BP concession and that accordingly BP was entitled to compensation. After that the trial was to continue to decide on the size of the compensation, but at that stage Libya joined in the proceedings and the affair ended in an amicable agreement.

13. In 1977 I was elected a member of the European Court of Human Rights in Strasbourg and remained in that capacity until 1988. The judges spent one week every month there. In many ways this was no doubt the most exciting and rewarding assignment of all. In November 1950 the European Convention on Human Rights was signed in Rome. It was established to provide against the recurrence of such terrifying phenomena as the German Nazi regime and Soviet Stalinism. In itself this convention was a unique phenomenon which marked a very important advance in the development of international law. The colleagues in Strasbourg were all eminent lawyers, one from each member country. We were all happy to take part in all these new things and particularly in the development and

protection of human rights. If, for instance, an individual has complained about a restriction of his or her freedom of expression and the court accepts it, indemnification is granted and if necessary the country in question is obliged to change its legislation so as to conform with the convention. And it differs from other conventions on human rights in that the court's decision is binding. This is of course a great success and a very important development.

14. From 1981 until the autumn of 1984 I served on the Iran-United States Claims Tribunal. After my formal retirement I had, however, to bring to a close all the cases in which I had participated in a hearing of the merits. The background of it all was as follows. In the 1970s the Americans were extremely anxious to develop the Iranian defence forces, one purpose being to keep an eye on the Soviet Union. Besides, they had far too rapidly contributed to transforming Iran into a modern industrial state. There was also an unfortunate situation with the Shah as absolute ruler whose secret police was more and more loathed. In 1978 disturbances were set afoot in Iran leading to strikes and anti-American demonstrations. The Shah's situation became increasingly precarious. In January 1979 he left Iran never to return.

A month later, 11 February 1979, the leader of the revolution, Ayatollah Khomeini, arrived from Paris and was received by at least a million jubilant people. After some time the Shah was taken to New York for hospital treatment. This was considered a provocation against Iran and as a reprisal the American embassy in Teheran was stormed on 4 November 1979 by, as the Iranian themselves would have it, independent students, but it was without any doubt a manoeuvred occupation. Fifty-two persons were taken hostage – American diplomats and other Americans – and were actually held hostage for 444 days before a solution could be reached.

What happened after this occupation was that President Carter retaliated by blocking Iranian holdings in the US and in American banks abroad. The assets are said to have amounted to in all 12 billion dollars. Carter also applied to the UN Security Council. The Shah died in Cairo in July 1980 and that autumn the war between Iran and Iraq started. These events made the Iranians more and more willing to negotiate to solve the crisis.

At first Germany tried to mediate, but unsuccessfully; recourse was then had to Algeria and this led to a settlement being reached on 19 January 1981. It was preceded by extremely difficult negotiations since Americans and Iranians could never meet. If an American draft was presented it had to be translated into French for Algeria to understand what the contents were and then be translated into Iranian, and so on and so forth. But there were very able Algerian lawyers and eminent diplomats, and they succeeded. The Algerian Declarations laid it down that the hostages should be set free and likewise the best part of the Iranian assets. Also, an arbitral tribunal was to be established to solve the majority of all disputes existing between Iran and the US. It was to consist of three Americans, three Iranians and three neutral judges.

The first set of neutral judges was Chief Justice Pierre Bellet, who had been president of the French Supreme Court, and besides two Swedes, Judge Nils Mangård and myself. I was appointed president.

To begin with time had to be spent elaborating procedural rules. We had no premises, but parts of the Peace Palace in The Hague were put at our disposal. In that and other ways we were given much assistance by the Dutch Government who after a while also provided us with a school which we could take over. We had no idea how many cases could be expected to be filed, but after a while it appeared that we had got some 4,000 to deal with, which necessarily turned out to be a great organisational problem.

The debates were bitter, often very much so, between the American and Iranian judges, but one case after the other was settled. The most serious incident was, of course, the corporal assault on Mangård by two Iranian judges, but perhaps I don't need to go into that matter here. Our awards have so far been printed in 33 volumes covering many areas of international law.

The bill of fare was abundant, including for instance compensation for nationalised American property in Iran – hotels, oil concessions etc. – but also Iran's request to have 11 billion dollars recovered which the Shah had paid in advance for airplanes, tanks etc. without any delivery ever having been made. That last case remains unsettled, but the Court carries on. Judges have often been replaced and out of the nine original ones only one is still serving. I find it fair to mention that being head of the large Tribunal, with its built-in political and emotional antagonisms, was a burdensome and oppressive task. When I relinquished it in 1984 some 80 persons from 17 different countries were employed. On 1 July 2001 the Tribunal had been in operation for 20 years!

15. After the 1967 and 1973 wars between Israel and Egypt agreement was at last reached about an armistice line, which Kissinger had been instrumental in bringing about and according to its terms Israel was to possess the whole of Sinai. There followed the remarkable occasion in 1977 when President Sadat visited Jerusalem. He was enthusiastically received and he addressed the Israeli parliament. This was an opening in the relationship between Israel and Egypt and soon after, in 1978, followed the famous Camp David conference under the chairmanship of President Carter, at which a Framework for the Conclusion of a Peace Treaty was elaborated. It was signed in the following year, 1979, in Washington with Carter as witness. In the terms of the agreement Israel was to withdraw from Sinai as far as to the boundary which used to be the one between Egypt and the former British mandate of Palestine that existed between 1923 and 1948. Israel should be granted three years for the withdrawal and it fulfilled that obligation.

Things proceeded fairly smoothly, but there were 14 border sections where the parties disagreed about the demarcation line. The boundary was to extend from Gaza to the Eliat region, where Taba was situated. It was

decided that the parties should try and agree between them about the contested border sections. In itself this was a trivial enough conflict, involving a maximum of 10 square kilometres. But, as already suggested, no government dares give up any portion of its country voluntarily.

After four years the Americans said that this had to be it. You must now submit to arbitration and what is then settled you will have to accept. The tension between the two countries was common knowledge and the only way out of it was arbitration. The question then arose how to go about finding arbitrators. The parties themselves were to appoint one arbitrator each but neither Egypt nor Israel was willing to apply to any person from other countries for appointing the three neutral arbitrators. There was no one whom they found it possible to turn to with unreserved confidence. They were also well aware of the fact that the prestige of an arbitration tribunal very largely depends on how it is composed. So the nomination proceedings were thorough and circumspect. However, at long last Pierre Bellet, whom I knew from the conflict between Iran and the US, and then also Prof. Dietrich Schindler of Zurich were elected. But no agreement could be reached in the matter of a chairman. If Israel suggested one name Egypt was doubtful and vice versa. After some time application was made to the two chosen neutrals to take part in the deliberations and finally Bellet proposed that each country supply a list of seven names to hand over to him. He was not to show the lists to any one. It appeared that I was the only person on both lists and had accordingly been accepted by both the Arabs and the Jews.

I called on the two agents to visit me in Stockholm and we discussed the venue of the proceedings. They took place in Geneva, in the Alabama Room, familiar to me from earlier on, and this time even the entire process would take place there. We decided on an inauguration for 10 December 1986. The 10 December is the day of the Nobel Peace Prize awarding ceremony and is moreover the universal Human Rights Day. So we met in December to penetrate the rules of procedure. We were agreed that three weeks would suffice for the oral part of the proceedings.

The remarkable thing was that the leading counsels for Israel and Egypt were both Cambridge professors, and it turned out to be top level hearings, both of them being extremely competent and efficient. I have never listened to more elegant pleadings. In the large delegations of both parties I found again many of the well-known lawyers of public international law who are time and again employed in major international conflicts.

When we, the five judges, three of whom were over 75 years old, were to visit Sinai, strict precautions were taken to protect us from propaganda from either side. As a result we did not get to see the pyramids or to visit the Wailing Wall. We were confined to airports and Taba. And Taba was after all the main place. It is near Eliat and has a large hotel and a splendid beach, but that was about all. The Israelis held Taba and maintained that the region was not part of Sinai. They would therefore not relinquish Taba, but the Egyptians asserted that it is part of Sinai.

A luncheon had been prepared at the hotel, but the Egyptians at once declared that it was out of the question to enter it, the hotel having been erected without a permit in their area. The chef then promised to serve the lunch in an oasis in the desert, but the food must not even be cooked in the hotel. A Norwegian general, head of an international patrol unit serving along the frontier, intervened and saw to the catering. At that time Israel was against any kind of UN patrolling.

We performed our inspections on the site and then betook ourselves northwards along the frontier in a helicopter. En route we got into a quite unpleasant hailstorm. Back in Geneva we went to work again. In the award, delivered on 29 September 1988, all five judges were agreed on the boundary line along the nine northernmost points at issue. On the other hand the Israeli judge dissented when the rest of the judges awarded the Taba region to Egypt. The award was rapidly implemented and the Israeli hotel owner was given a compensation of 39 million dollars. And that was the end of that conflict.

When after the judicial decision I was interviewed about what qualities are important in an arbitrator I answered more or less in the following terms. You have to have a certain degree of authority, patience without slowness, and imagination. You must also possess the ability to absorb a large and complicated material and to identify the essential questions. You also have to be friendly and show respect for both parties, treat both in the same manner, and see to it that they are allowed equal time to address the tribunal. In some cases we used stop-watches to time it, so that one party would not speak for a longer time than the other. You also have to have the talent of getting persons of different cultures to function together. I usually also express a wish for an earlier recourse to arbitration. You then obtain a decision valid without the approval of both parties. Nowadays a mode has developed for amicable settlement and for mediation and for knowledge of the culture and religion of both countries. But with a well-qualified arbitration tribunal we possess since centuries back a framework for the procedure and there is no question of having to deal with religious issues etc., for then you will definitely be skating on thin ice.

16. In Koblenz there is a tribunal that deals with Germany's debts incurred as a result of the 1914–1918 War. In the Treaty of Versailles very great indemnification sums had been imposed on Germany and the Germans could only meet their obligations by raising loans. They got some from the Swedish "match king" Ivar Kreuger while most part of the borrowing transactions was managed via the great Dawes and Young Loans. The Kreuger loan has been repaid, but the other loans will not have to be reimbursed in their entirety until 2010.

I am chairman of the tribunal and joined by three Allied judges and three Germans. When I was eighty-five it was my intention to retire, but since at present the tribunal has no cases to deal with, the governments in Washington, London, Paris, and Bonn thought I could carry on for another

five-year period, which means I shall actually remain in service until I am nearly ninety.

17. I should like to finish this account by mentioning an astonishing and glamorous interlude in my life. During the period when I was president of the Court of Appeal in Göteborg, I was approached with an offer to become Marshal of the Realm. I gratefully agreed and so found myself occupying the beautiful room of Marshal of the Realm Axel von Fersen (1755–1810), a room adorned with gilt leather wallpaper, in the Royal Palace in Stockholm.

I was number fifty in the sequence of office-bearers. The office dates all the way back to 1441, at times with somewhat different titles for the holder but with the same functions. You are in charge of the King's contacts with the Government and the Riksdag and under the King you are head of the Court staff and personnel to the number of some 200. While in office you are also the only Swedish civil servant entitled Excellency.

My first great charge was the Royal wedding on 19 June 1976, an unforgettable event and experience.

My years in office at the Royal Court was an entirely new element in my life story, quite different from what I had experienced before and very inspiring. I held the opinion that it was important for the Court to function efficiently. However, when the charge as president of the Iran-US Claims Tribunal took up an increasing amount of my time, I was obliged to retire from my service at the Royal Palace.

Gunnar Lagergren, President of the Arbitral Tribunal and Mixed Commission for the Agreement on German External Debts

2 December 2001