My personal recollections of Oscar Schachter begin in 1980, when as Editor in Chief of the American Journal of International Law he wrote me to accept an article I had submitted, which was my first effort at scholarship in the field of international law. That letter has always had sentimental value for me, and even more so now, because it marks the beginning of a friendship and mentoring relationship that has lasted almost a quarter of a century. A few months after the AJIL published that article, Oscar and I met in person for the first time at the annual meeting of the American Society of International Law; he asked me if I had ever considered teaching international law. The thought had never crossed my mind up to that moment – I had just left the Department of State for private practice a few months before – so in a sense, Oscar was the one who put the thought there. Two years later, he raised the question again at another ASIL annual meeting; by that time I was ready to see if the academic life was right for me. We have been colleagues at Columbia since 1984.

In due course we will have a public event at Columbia to celebrate the professional accomplishments of Oscar Schachter as scholar and public servant. That will be the occasion for those of us in the field to explain why we think of him in such superlative terms. Today I am consciously choosing a different mode of tribute, and will speak mainly in the personal rather than professional voice. One of the reasons why I want to reminisce rather than eulogize is the very impossibility of putting the proper frame on the superlatives. Articles 2 and 38(1)(d) of the Statute of the International Court of Justice use terms that are familiar to the international lawyers here: “jurisconsults of recognized competence in international law,” and “the most
highly qualified publicists of the various nations.” Among that circle already limited to the very best, was he, as one of my European colleagues said upon learning of his death, the most highly regarded jurist in the world? Some might think that there are a handful of other contenders for that honor, or that the frame should be American international lawyers or law professors of his generation. It isn’t necessary to choose among the possible gradations of superlatives. We could find general agreement in our profession that no one in the second half of the twentieth century, from the founding of the United Nations straight on through, did more to shape the way that the profession in general thinks about the fundamental problems of international law in the UN Charter period, from the deepest questions of how international obligations are formed, to the meaning of the central legal rules (including the prohibition on the use of force), to the institutional structures in which law is applied, especially the United Nations.

I want to speak and write at length in his honor on exactly those topics on another occasion. My task today is a different one: to convey something of Oscar’s personal qualities as a colleague and as a mentor.

One of our collegial projects began in 1985, in a study group of the American Society of International Law on the International Court of Justice. Oscar’s chapter, later published in The International Court of Justice at a Crossroads (Lori F. Damrosch ed. 1987), was called “Disputes Involving the Use of Force.” Those acquainted with his work in international law will know from the title of this chapter that it combines two of the most important topics in his scholarship: the international law of the use of force, and the peaceful settlement of international disputes.

On those two big themes, and his incalculable contribution to the international law of the
subject, he articulated as brilliantly as anyone could the proposition that the international law of
the use of force does matter. The title of one of his well-known articles is “In Defense of
International Rules on the Use of Force” (53 U. Chi. L. Rev. 113 (1986)); it forms part of a series
in which he expounds the central norm of the UN Charter – the prohibition on the use of force in
international relations and the restriction on lawful use of force to situations of self-defense or
authorization by the UN Security Council. His writings deal incisively with the most
controversial aspects of the law of the use of force – including anticipatory or preemptive self-
defense and “pro-democratic intervention” – which are very much in the forefront of public
debate in 2003. As for peaceful settlement of disputes, he maintained with conviction not only
that the rules on use of force are obligatory and well-grounded, but also that courts can apply
them. It was that proposition that he defended eloquently in his chapter for The ICJ at a
Crossroads, which examined thirteen cases in which issues of use of force came before an
international court for legal evaluation.

When we began the ICJ project in the summer of 1985, I had been on the Columbia faculty for one year, and he had had four decades in the field, the last decade as the Hamilton Fish Professor of International Law and Diplomacy at Columbia. (His status had shifted to “emeritus” that summer, by virtue of the then-applicable mandatory “retirement” age of 70, but I am putting both of those terms in quotation marks because he never in any sense “retired” – he continued an absolutely full program of professional engagements until his final illness of the last few months.) Thus one could imagine the mildly daunting prospect of a little girl less than half his age (I was then 32; he was 70) venturing to edit his prose for the study group’s volume. But I did – lightly – and our collegial relationship thrived.
One thing I quickly learned upon becoming his colleague in the mid-1980s was that in his career in international law and diplomacy he knew everyone and had a story to tell – usually about the first time they met. The other day, for example, he told me how he first met Kofi Annan on an airport tarmac in Accra, Ghana, even before the future Secretary-General joined the UN civil service – which goes back before 1962.

Oscar not only knows everybody, but he remembers exactly what was the occasion when you first got acquainted, and where you were the last time you met, and who brought you together, and so on. I recall one occasion, when he was introducing a young Soviet scholar at a conference in Washington in 1990. Oscar offered one of those gracious introductions so characteristic for him: “It gives me great pleasure to introduce Nikolai Borisovich Krylov, whom I have known for not so very long. But I have known his father, the noted constitutional scholar, Boris Sergeievich Krylov, whom I met in Moscow. And I have known his grandfather, Judge Sergei Borisovich Krylov, who sat on the International Court of Justice between 1946 and 1952. At this point young Krylov took the microphone and said: “I was already nervous enough to have to follow the respected Professor Schachter and comment on his paper, but when I hear that he knew my father and even my grandfather, why, I’m going to have to take my papers and my airline ticket and head back to Moscow as fast as I can!”

The occasion for that introduction was a conference on the law of the use of force in November of 1990, as a joint project of U.S. and Soviet scholars of international law. In between the issuance of the invitation to our Soviet colleagues in early 1990 and the holding of the event later in the year, Iraq attacked Kuwait, and the first President Bush had ordered a massive military deployment to the Gulf. On the day that the conference took place in late November,
U.S. troops were preparing for action and the world was holding its breath to see whether President Bush was going to order the troops immediately into action or wait for U.N. authorization – a scenario we saw again in 2003. When it came time for Oscar to deliver his prepared remarks, he began with an epigram that Isaiah Berlin had borrowed from a Greek philosopher to apply to Tolstoy: “The fox knows many things, but the hedgehog knows one big thing.” Oscar said, “Our subject” – use of force – “is wide and many-sided; it calls for a fox. Yet at this time, our attention is focused on one big thing” – the looming prospect of military action against Iraq. I have often thought, in rereading his paper as published in our collaborative volume, *Law and Force in the New International Order* (Damrosch & Scheffer eds., 1991), that he was the fox who gave us the insights that we needed into that one big thing.

His paper for that conference was one of quite a few that he wrote on use of force authorized by international organizations – a topic on which his influential writings began as early as 1961 and continued through the 1990s and into the present period. By the way, the lawyers in the audience will not find his first such article, “Legal Aspects of the United Nations Action in the Congo,” through the usual techniques of research, such as a Lexis search by author name. Because he was director of the UN legal division at the time, he could not publish the 1961 paper under his own name. Therefore it is found in the AJIL under the name “E.M. Miller” (55 AJIL 1 (1961)). The family knows that “E.M. Miller” is the maiden name of the first Mrs. Schachter, Mollie Miller Schachter. Oscar and Mollie were married in August of 1936, when he was 21 and just entering Columbia Law School. Their married life lasted almost 44 years, until her death in 1980. I feel that though I never knew her in her lifetime, I am connected to her through the pages of the AJIL, where E.M. Miller and Oscar Schachter are one and the same.
Oscar published that article under his wife’s pseudonym just a year or so after his name first appeared on the masthead of the AJIL as one of its newest editors. Later, he became co-Editor in Chief of the Journal together with Louis Henkin, serving from 1978 to 1983. Two decades later, I find myself entrusted with the privilege of carrying on their legacy at the AJIL. As we plan for the centennial commemoration for the ASIL/AJIL which will be held in 2006, there is no doubt that Oscar’s contributions to the written output of the Journal, as well as his leadership of the Society as President, Honorary President and in many other capacities, will be a central part of that celebration.

I turn now to Muriel Sackler, his wife for more than two decades, and to his daughters Judith Schachter and Ellen Leventhal, and to his sister Honey Zimmer – accomplished professionals in psychoanalysis, anthropology, publishing, and social work – and to all the other women of the Schachter family, with a special word on Oscar as mentor to women lawyers:

One of Oscar’s most famous articles is a 1977 piece called “The Invisible College of International Lawyers” (55 NW. U. L. Rev. 219 (1977)). It has been so much cited that on its 25th anniversary, the ASIL devoted the entire annual meeting to what it called “The Visible College of International Lawyers.” (2001 ASIL Proc.) Until fairly recently, the “Invisible College” was almost exclusively a fraternity, but Oscar has done as much as anyone to make sure that there is a sorority too. The co-authors of the first article on Feminism and International Law, published in the AJIL in 1993, invited him to a precursor conference on that subject held in Australia in 1992; one of the papers from that conference has the quotable title, “Alienating Oscar?” – the kind of humor that the authors could get away with because they knew that the object of their gentle teasing who was present in their audience was in fact quite sympathetic to their feminist project.
In fact, Oscar was a first mentor to the female trailblazers in our field, and a most significant influence in their lives. Rosalyn Higgins, the first woman to be elected to the International Court of Justice, worked with Oscar Schachter beginning in the early 1960s, when she was a doctoral student at Yale and he was a visiting professor there. (A hearing is in progress in The Hague today; otherwise Rosalyn would have wanted to be here.) When we grieved together by telephone on the morning of his death, Rosalyn spoke movingly of their friendship.

Ambassador Xue Hanqin, currently China’s ambassador to the Netherlands, wrote her doctoral dissertation under Prof. Schachter’s supervision at Columbia and recently became the first woman to be elected to the UN International Law Commission. During his hospitalization this fall, she and I exchanged e-mails in which I relayed messages between the two of them. I had mentioned to her how proud he was of her accomplishments, including her election to the ILC, and she wrote back: “I was brought up in a culture where we were taught that whenever you achieve something, you should always give the credit to your parents and teachers. If Professor Schachter feels proud of me for what I have achieved, he also deserves the credit.” Upon learning of his death, Ambassador Xue wrote:

It has been twenty-one years since I first met and studied with Professor Schachter at Columbia. Ever since then, I have never lost contact with him. This is not only because he is a towering figure in international law, but more because he is a great man, a great personality to stay in touch. I cannot say how much I have learnt from him but I can say that he has taught me a great deal. His insight, his perception and his knowledge about law and life are most remarkable and impressive. He is always very kind and helpful to his students and responsive to their various requests. Whenever they make some progress
and achievements, he is the happiest man. I feel very sad to have lost such a great teacher and a best friend.

Two other members of the “invisible sorority,” Brigitte Stern of the University of Paris and Edith Brown Weiss (a recent past president of the ASIL) conducted “living legend” interviews with Oscar at the 1997 and 2001 annual meetings of the ASIL. The ASIL Proceedings carry the transcripts, which I commend to all for that combination of substance and charming humor that characterized Oscar’s performance on every public occasion. I was thinking back on the interview by Brigitte Stern the other day, because her opening exchange with Oscar was so adorable that I have to quote it for you briefly. She gave an effusive introduction that runs on for one-and-a-half pages of extolling his accomplishments, and then she plunges in with the interactive part: “My first question is: What have been your main mistakes – as a lawyer, I mean?” Now, if you asked me to think of any mistake Oscar ever made, I would probably be completely at a loss to think of even one. Here is his answer:

Oscar Schachter: Gosh. After that wonderful introduction ... you call for my mistakes. Sure I made lots. ... In 1948, ... at the United Nations, the architects planning the future headquarters asked me how many seats they should make in the General Assembly. Now is that a lawyer’s question? ... The United Nations then had only fifty-one members. An international lawyer would be expected to know how many sovereign states existed and were potential members. I confidently answered the architects (after checking some textbooks) that they could safely add twenty seats to the fifty-one. It did not take long for my estimate to be mistaken and for costly renovations to be needed. A simple point, perhaps, but can lawyers confidently take the world as it is at a given
moment when we know that it is in constant change? Could anyone have foreseen the breakup of colonial empires and the Soviet Union? The real problem, of course, does not involve guessing numbers but how to develop ideas and proceedings to cope with the unexpected changes that are inevitable.

When I sent the e-mail notice of Oscar’s death over the weekend to the AJIL Board, several members replied with messages that they would like me to convey to the family. I will assemble all the messages in due course in printed form; for today, let me single out two that capture different aspects of Oscar’s quintessential self. The first is from Peter Trooboff, a leader of the practicing bar in Washington, whose recollection of Oscar as a featured speaker at an international meeting in the late summer of 1990 reminds us how well Oscar understood the practical, political side of international relations and international law:

We were all so focused on what would be the proper U.S. and U.N. response to the Iraqi invasion. Oscar saw so clearly that there were a number of avenues that had to explored in attempting to convince Iraq to withdraw; he saw equally clearly that military force would be necessary if those other methods failed. He spoke of the latter with conviction and as a student of the lessons of other wars that had to be fought after all efforts to prevent them had failed. Yet he never lost faith with striving to reconcile international disputes without resort to force.

Tom Farer, dean of the Graduate School of International Relations at the University of Denver, sums up this way:

“Admiration” is an overused, often abused word that does not come readily to me. But admiration is what I felt and will continue to feel for Oscar. He was a bell that always
rang true, that rare human being who is utterly free of vanity, the exemplar of the search
for understanding both for its own sake and for the sake of the community which he
instinctively defined in global terms. Although in many respects an insider, he had the
moral imagination to understand and bond with and, therefore, to defend the outsiders.
No one could look less like Lincoln, but from among our number, no one was closer to
the broad sympathies of Lincoln, the iron integrity, the fearlessness. Without knowing it,
Oscar was my mentor, the colleague who set the bar higher than I could hope to leap but
inspired the desire to try.

I have a sheaf of other e-mails from far and near, from those who want to put into whatever
words they can their thoughts and feelings about this towering figure in twentieth-century
international law, this gentle man who touched so many lives so personally. I have chosen to end
not with a Lincolnesque image, but with two other vignettes that capture for me Oscar’s ineffable
essence.

When it fell to me to put on a musical skit at the ASIL’s annual banquet in 1997, I settled
on a Wizard of Oz theme and had to cast myself in the role of Dorothy (for the simple reason that
I couldn’t find any other female international lawyers willing to sing “Somewhere Over the
Rainbow” in public). Oscar insisted that I write a suitable part for him. He said, “I have
grandchildren; I can make funny faces” – and he demonstrated a few on the spot. So I gave him
the role of the Mayor of the Munchkins and he cheerfully sang our adaptation of “We represent
the Lullaby League” – “We represent the Law-of-Land League” to several hundred serious
international lawyers – just a few hours after Brigitte Stern’s unforgettable interview. He was
then 82 years old and quite youthful for the part.
By the time we came to be friends he was in his 70s and 80s, but I will always think of him as someone who carried his youthful energy wherever he was. There is an emblematic moment from about four years ago that I would like to share in closing. Oscar was well into his 80s, but this was also before his health troubles of the last few years – I am guessing he was close to 85 at the time. We were leaving a meeting at a human rights organization on the East Side of Manhattan, on East 53rd Street, and I proposed sharing a cab to Columbia. He said, “Oh no, I never take a cab from here. I always take the subway.” I complained, “But it’s such a nuisance to get to Columbia by subway from the East Side.” He said, “Not if you do it my way. Do you know the trick to take the N/R and change to the IRT at Times Square?” Well, the N/R is not on my regular route, so I actually didn’t know that trick. He said, “Let’s go and I’ll show you. It’ll save you a lot of time from here on out”. We got on the N or the R, got off at Times Square, and began walking through that chaotic station to transfer for the uptown 2 or 3 trains. Right in the middle of the Times Square station, at the place where the steel bands and break-dancers perform, he paused to take it all in, removed his hearing aids, and said, “I love the subways, and I love this spot. Whenever I’m here, my youth comes back to me.” At that moment, I knew in my heart that from that time forward, every time I would walk through the Times Square subway station at the transfer point from the N/R to the IRT – which I have now done innumerable times since he taught me that shortcut – I would be reminded of this youthful, energetic man in his 80s. I took that route through the Times Square station again this week, with that memory bringing back a smile as always – and I invite you to try it yourself and think of him every time you do.

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