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Kosmos I Mezdunarodnoe Cetrudnitchestve, (The Cosmos and International Cooperation)

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BOOK REVIEW

KOSMOS I MEZDUNARODNOE CETRUDNITCHESTVE, (The Cosmos and International Cooperation), published under responsibility of G. P. Zhukov, Commission on Legal Questions of Interplanetary Space of the Soviet Academy of Sciences, Moscow, U.S.S.R., pp. 255.

This volume is composed of a collection of papers by Russian jurists published under the responsibility of G. P. Zhukov by the Commission on Legal Questions of the Interplanetary Space of the Soviet Academy of Sciences. The Foreword, written by Professor Zadorozhnii, is dedicated to Professor Korovin, dean of the Soviet internationalists and promoter of the law of cosmic space. Only three of the nine contributions¹ to this second collective Russian work on "World Space" law will be reviewed here. In his contribution "The Legal Regime of Cosmic Space," G. P. Zhukov discusses the topic of the demarcation line between air and cosmic space and classifies the opinions of the writers into two categories. The first category calls for a functional approach while the second proposes the drawing of a rigid boundary line between the two spaces. He seems to adhere to the line of thought that it is too early to speak of a customary right of innocent passage of spacecraft and that present practice, generally is based on tolerance and not on a tacit recognition of rights.

After reaching the conclusion that neither the practice of States nor Resolution 1721 of the United Nations General Assembly² have solved the question of limits, he remits the matter to the province of doctrine. In absence of a compulsory rule of the point, Dr. Zhukov agrees with the Polish jurist Dr. Sztvcki that this question must be solved independently of any claim of sovereignty, considering only the security of the States without any determination of altitude.

In that prospect, the question of limits fades away in the face of demilitarization of cosmic space which in turn is subordinate to total and general disarmament. Dr. Zhukov observes that the effectiveness of the precepts embodied in Resolution 1721 is dependent on general disarmament.

Dr. Zhukov asserts that since the aims of international cooperation are the very essence of the United Nations, anything which is contrary to that purpose such as reconnaissance satellites and spacecraft carrying nuclear devices must be excluded from cosmic space. Such activities are considered aggressive in the political sense. It seems that Dr. Zhukov makes a slight departure from a well established Soviet line of thought and draws

¹ Further contributions are:

G. C. Stacevskii: *The Role of the Special Organizations of the UN in the Development and the International Cooperation for the Exploration of Cosmic Space for Peaceful Purposes*, (p. 110-134); D. D. Erigin: *On the Question of the Allocation and International Regulation of Radiophonic Frequencies for Cosmic Services*, (p. 135-156); M. I. Lazarev: *Cosmic Law as a Result of Technical Progress*, (p. 157-171); U. L. Chvetov: *Questions of Cosmic Law in the Interparliamentary Union Founded 1889*, (p. 172-184); A. I. Munder: *Questions of the Regime of Cosmic Space in the Legal Literature of the German Republic*, (p. 185-208); E. G. Vassilevskaia: *Questions of Cosmic Law in the Recent American Literature*, (p. 209-240).

² United Nations General Assembly Resolution 1721 (XVI), December 20, 1961.

closer to a definition of "peaceful" as non-aggressive, instead of the accepted definition as non-military. According to Dr. Zhukov, article 51 of the Charter must be interpreted in a restrictive manner which excludes any preventive action, whether on the Earth or in cosmic space.

While he recognizes a necessity to clarify Resolution 1721, he believes that it is tantamount to the acknowledgment of the fundamental principles of international law. Although the Resolution does not anticipate a mechanical extension of international law, it calls for international cooperation with a view toward achieving the aims of contemporary international law. One of the principles is that each state must perform its activity in cosmic space in such a manner that it does not interfere with the rights and interests of other nations.

I. I. Tcheprov's contribution, "The Legal Regulation of Activities in Cosmic Space," is divided into four parts. In the first part, Dr. Tcheprov states that an immediate adoption of a full-fledged code of cosmic law must be rejected. A progressive method according to practical necessities is suggested. He recognizes a necessity for the adoption of a system of general principles but discards any suggestion for internationalization or pooling of resources and know-how. Such proposals, in his opinion, are prompted by a desire to compel the Soviet Union to forsake her technical superiority. He restates the Soviet opposition to any cosmic activity by private corporations and the recurrent claim that cosmic activity must be entrusted to the states alone. The second part contains the rules proposed by Dr. Tcheprov for the salvage of cosmonauts and spacecraft. The proposed rules follow practice and draft regulations familiar in aeronautics, without consideration of similarities and divergencies and without delving into past frustrations with regard to air activity. Repatriation of cosmonauts and the return of spacecraft is dealt with in the third part of the paper. Dr. Tcheprov considers repatriation without delay and immediate retrieval as the mainspring of regulation, but suggests that all spacecraft which do not serve a peaceful purpose, such as reconnaissance satellites, would not be liable to return. In the fourth and final part of his contribution, Dr. Tcheprov condemns United States activity which tends to pollute and contaminate cosmic space such as the American project West Ford and the testing of atomic devices at an altitude of 500 miles. In contrast, he referred to the special measures taken by the Soviet Union at the launching of the moonprobe of December 12, 1959, to avoid contamination of the moon by terrestrial microorganisms. From the premise that the whole of mankind must reap the harvest of cosmic activity, it follows that general principles governing cosmic activity must, of necessity, be couched in the form of a document fully implemented and effective as an international convention.

In his contribution "The U.N. Committee on the Use of Cosmic Space for Peaceful Purposes," F. N. Kovalev expresses the view that only through closer Russian-American cooperation can a new and sufficient impetus be injected into international cooperation in world space. It is the conviction of the author that it is not permissible to grant power of decision to a majority which has no interest at stake since the United States and the Soviet Union are the only cosmic powers.

A closely related problem is the powerful corporations which control

considerable parts of world telecommunications. To confer upon them the right of activity in cosmic space would imperil any sound international cooperation. Therefore, it is necessary to reserve the exclusive right of space activity to states.

Dr. Kovalev warmly approves Resolution 1721, but emphasizes that it does not contain all principles which must govern exploration and use of cosmic space for the benefit of mankind in the future. He proposes an early adoption of the Declaration of General Principles as submitted by the Soviet Union, prohibiting *inter alia* reconnaissance satellites. Among the principles which he would like to see incorporated into the Declaration are the maintenance of the rights of sovereignty over objects launched into space and the assistance and salvage of cosmonauts and their distressed craft. Dr. Kovalev complains that while the Soviet Union proposes the conclusion of an international convention on the subject, the United States adopts a negative attitude toward both the Declaration of Principles and an international agreement on assistance and salvage of spacecraft. Dr. Kovalev's opinion is that the United States wants to divert attention to a question which is secondary, that of the compensation for damages caused by spacecraft.

A summary of the striking features of this second collective Russian work on the law in "World Space" might be stated as follows: (1) the main weight of argument is concentrated upon collaboration within the United Nations, but it is implicitly recognized that this cooperation is insufficient, since the different contributors consider it to be an unavoidable requirement that the norms to be established must be formalized in international conventions; (2) if multilateral collaboration within the framework of the United Nations is considered as a prerequisite basis for any cooperation in cosmic space, it is also clear that authoritative Russian opinion would lay greater stress upon the necessity of a bilateral Russian-American agreement in the field; (3) even though one may see a trend toward a definition of "peaceful" as "non-aggressive," instead of "non-military" as it has been generally defined in Soviet literature, it is still unanimously agreed that reconnaissance satellites cannot be classified as peaceful spacecraft; and (4) although a progressive method of approach is considered as a necessity, the contributors agree that the conclusion of a formal international agreement embodying the general principles of cosmic law is a condition precedent to such an approach.

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