

1983

Correspondence

Recommended Citation

Correspondence, 17 INT'L L. 597 (1983)
<https://scholar.smu.edu/til/vol17/iss3/10>

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Correspondence

Dear Editor,

An article entitled, "The Theory and Practice of Soviet International Law," by Mr. George E. Glos, which was published in your journal (vol. 16, no. 2, Spring 1982), did not contribute to a better understanding of the Soviet approach to international law. Quite to the contrary, in my opinion as a scholar of international law, it only contributed to further misunderstanding.

Today, relations between West and East have reached their lowest ebb in many years. The dangers of mutual incomprehension have greatly increased. As you well know, in international relations ebb tides do not turn on their own. In order to come back from the debris of détente, both sides should do everything possible to reach mutual understanding on problems dividing them. Diversity of opinion is not an insurmountable obstacle to the development of friendly relations between states with different socio-economic systems. Moreover, such diversity in international relations is unavoidable. However, even recent history shows that states of two opposing systems can have very good and friendly relations. International relations have to be based on values common to all mankind. It presupposes the development of broad cooperation between states of two systems in different fields of their relations. The need for such cooperation is increasingly apparent and no alternative exists for the policy of détente.

Confrontation of ideas has nothing to do with distortion of history and points of view. However, some Western writers often misinterpret the essence of Soviet foreign policy and the Soviet approach to international law. Such was the case in Mr. Glos's article, which misconstrued the Soviet approach to international relations in general and to international law in particular.

First of all, there is no such phenomenon as soviet international law or capitalist international law. Today there exists two different socio-economic systems. It is impossible to reach any agreement between states with different socio-economic systems on the basis of either socialist or capitalist legal norms. The existence of the states with opposing systems has led to the emergence of general international law, which is well known as contemporary international law. The norms of contemporary international law are neither socialist nor capitalist. They have a general democratic nature which is acceptable for states with different socio-economic systems. In the process of creating norms of contemporary international law, states of the

two systems make mutual concessions and reach agreements concerning the content of concrete norms of international law. A large number of multinational agreements concluded during the last few years on a variety of global problems has shown that it was possible to overcome differences and to achieve constructive results even in such a complicated present international situation. However, there can be no question of fruitful cooperation among states, if one side puts forward as the conditions of its successful development the necessity of changing the laws and traditions of sovereign states or tries to impose upon these states its own position. Only mutual concessions can lead to international agreements and to development of relations between states.

I have been writing on international law more than twenty years and never have my books and articles been subjected to a "government-approved version," which, as Mr. Glos writes in his article, "individual writers have to follow." I don't know whether Mr. Glos knows Russian or how many Soviet-written books on international law he has read, but contrary to his allegations, the approach taken by Soviet lawyers toward international problems or toward the interpretation of international law are often manifold.

Mr. Glos is also displeased by the fact that Soviet law is "designed to play an active role in the restructuring and building of communist society." However, whether he likes it or not, internal law of any state has a class character which expresses the will of the dominant class of society and defends its interest. I don't think that Mr. Glos sincerely believes that the law of his country reflects the will of the unemployed people of the United States and primarily defends their interests.

Mr. Glos asserts that Soviet law puts emphasis "on duties toward the state rather than on rights, as against the state." But contrary to his allegation, Soviet citizens possess the whole range of social, economic, political and personal rights and liberties proclaimed in, and guaranteed by, the USSR Constitution and Soviet laws. However, as underlined in the Soviet Constitution of 1977, "the exercise of rights and liberties by citizens must not injure the interest of society and the state or the rights of other citizens."

Human rights and freedoms cannot be regarded as something absolute and unlimited, as some Western propagandists demand them to be. A man lives in society and acts in the context of a specific community of people. A certain order is needed if any society is to function properly and a properly functioning society is not possible unless its members observe certain obligations, both to the state, in whose territory they are living, and to other people.

In his article, Mr. Glos misconstrued not only the Soviet doctrine of contemporary international law (the principle of nonaggression, the principle of peaceful settlement of disputes, the principle of self-determination of

peoples, the principle of peaceful coexistence, the principle of disarmament, the principle of respect for human rights, the prohibition of war propaganda, the principle of socialist internationalism) but also the history of international relations.

In the interest of brevity, I will not further elaborate on these misconceptions. However, I cannot help but write a few words about the Second World War, in light of his allegation that it was started because of USSR policy. As a matter of fact, in the years preceding the outbreak of World War II, the Soviet Union was the only state to press for curbing the fascist Germany and for the building of a reliable system of collective security by the European powers. In September 1938, on the eve of the Munich deal, the Soviet government offered military assistance to Czechoslovakia. However, under pressure from Britain and France, the ruling circles of Czechoslovakia rejected the assistance from the USSR and surrendered to fascist Germany.

In July 1939, the Soviet Union offered to conclude a pact with Britain and France on joint military actions in the event of Hitler's Germany unleashing a war in Europe. But the ruling circles of the major western countries pursued the policy of appeasement and, as a matter of fact, it meant open encouragement of the aggressor.

After the Munich deal, Great Britain and, a little later, France concluded a joint declaration with Germany in which they proclaimed their wish "never to go to war with one another again." The Soviet Union was left alone to face Hitler's Germany. In such a complex and intricate international situation, the Soviet Union was forced to conclude the non-aggression pact with Germany. It was aimed at postponing war and limiting its scale and consequences. History proved the righteousness of Soviet policy! The fighting on the Soviet-German front, where Hitler's Wehrmacht lost 80 percent of its strength, was decisive in the Second World War.

Dear editor, before undertaking a project, a conscientious writer collects an enormous amount of material, studies the subject under consideration, double-checks facts and events; subsequently, even if such was the case in the preparation of his article, Mr. Glos nevertheless succeeded in misconstruing the Soviet approach to international law and the history of international relations, as well as the well-known facts of present Soviet life and activities of the Communist Party.

Let me remind Mr. Glos that membership in the Communist Party is not obtained by "invitation" and "through several years of candidate membership." Party members are never "remunerated" and they don't "hold state offices commensurate with their rank." The government is not "the exclusive owner of housing," etc., etc.

Political and juridical speculations at the expense of the Soviet Union can never benefit their authors. As the Russian saying goes, "Facts are stub-

born things." They are undeniable realities that are not to be gotten over by wishful thinking or theories. Let me, dear editor, in conclusion, express my hope that this letter will contribute to a better understanding of the Soviet approach to international law.

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Mr. Glos Replies:

Dear Editor,

Reading the letter to the Editor written by Mr. Vladimir Kartashkin concerning my article on "The Theory and Practice of Soviet International Law" published in the *International Lawyer*, Spring 1982, Vol. 16, No. 2, I was pleasantly surprised that it voiced very little disagreement.

I greatly appreciate Mr. Kartashkin's call for better understanding, which is always needed in the relations between countries, especially those of the great powers. It goes without saying that the Soviet Union could contribute to detente and international cooperation by concrete actions in almost any area of endeavor, such as the limitation of nuclear weapons build up, a limitation of its conventional forces on land, the sea, and in the air, which greatly exceed its defensive needs. It could contribute to world peace by withdrawing its forces from Afghanistan and allowing the nations of Estonia, Latvia, Lithuania, East Germany, Poland, Czechoslovakia, Hungary, Rumania, and Bulgaria to exercise their rights of self-determination. The recall of Soviet armed forces and free elections in these countries would restore good relations between these nations and the nations of the Soviet Union and promote peace. In the same vein, the removal of the Berlin wall and the compliance by the Soviet Union and the East European countries with the spirit of the Helsinki agreement would bring a completely new era of understanding between East and West.

Although Mr. Kartashkin writes that I misconstrued the Soviet approach to international law, his own comments do not point to any misconstruction but are in line with my understanding of the Soviet thesis as I pointed out in my article under II, "The General Premise of Soviet International Law" on pages 282-283, namely that international law is presently in the stage of temporary peaceful coexistence of socialism and capitalism. The norms of contemporary international law are neither socialist nor capitalist but those of the temporary period of transition from capitalism to socialism.

I appreciate the sincerity of Mr. Kartashkin's statement that "[the] internal law of any state has a class character which expresses the will of the dominant class of society and defends its interest." In the Soviet Union this

means the rule of the Communist Party which accounts for about 6.36 per cent of the population, a tiny minority which could not continue in power by democratic means. In the free world, however, where governments come to power by elections and remain in power by a majority support of the population while safeguarding the interests of the minority, there is no place for any struggle between classes. Class struggle advocates, promotes, and incites discrimination, strife and hatred among the population. Since the Soviet Union subscribes to the class struggle in its internal political order which is the opposite of peace, it is hard to believe that it has peace in mind when it "struggles for peace" in the international forum.

I also fully agree with Mr. Kartashkin's construction of social, economic, political and personal rights and liberties of Soviet citizens as expressed in the Soviet Constitution of 1977, namely that human rights and freedoms are not regarded in the Soviet Union as something absolute and unlimited, but that members of Soviet society have to observe certain obligations, both to the state and to other people.

Contrary to Mr. Kartashkin's allegations, I have not, however, misconstrued the Soviet doctrine of contemporary international law. My presentation appears under III, "The Soviet Concept of International Law after World War II," pages 284-293. It reproduces the Soviet doctrine uniformly presented in Soviet and East European legal literature and summed up by a leading Soviet authority in the field, Professor G.I. Tunkin.

In the interest of historically verifiable facts, a comment on Mr. Kartashkin's version of the beginning of World War II is in point. There was no greater advocate of collective security in Europe than Dr. Benes, the Foreign Minister of Czechoslovakia. In his numerous functions in the League of Nations, he tirelessly worked for collective security and actively participated in all the endeavors of collective defense against German aggression. On his initiative, the Soviet Union concluded a treaty of mutual assistance with Czechoslovakia on May 16, 1935. Article 2 of the Treaty Protocol made any Soviet assistance to Czechoslovakia dependent on military assistance rendered to Czechoslovakia by France. The treaty was also conceived within the framework of the League of Nations and contemplated a collective action by European powers against Germany. Since France did not honor its treaty obligation toward Czechoslovakia, no obligation to render assistance ever arose on the part of the Soviet Union. Its offer of assistance was based on France giving its assistance first.

After the Munich agreement, contrary to Mr. Kartashkin's statement, the Soviet Union far from facing Hitler's Germany alone, did not even have a common border with it. After Germany's occupation of the remnants of Czechoslovakia in March, 1939, France and Britain made it quite plain to Germany that a similar deal would not be made with respect to Poland, and a German attack on Poland would mean war. Britain, which did not have a treaty of mutual assistance with Poland, concluded its treaty on August 25, 1939. Had the Soviet Union joined France and Britain and assured Poland

of its military assistance, Hitler would have possibly changed his mind about attacking Poland. Instead, the Soviet Union made world war a certainty by agreeing with Hitler to partition Poland even before Hitler actually attacked.

I am disappointed that Mr. Kartashkin does not agree that membership in the Communist Party is obtained by invitation. I used the term as best fitting to express the Soviet practice of admitting members. Without going into details it is sufficient to say that no person can simply join as he could join a political party in the Free World. I also did not say that party members are remunerated as party members but that they hold top positions in government and other organizations and are correspondingly remunerated. In short, in the Soviet Union it pays to be a party member.

Finally, I cannot agree more with Mr. Kartashkin that "facts are stubborn things." The world would appreciate obtaining true facts from the Soviet Union.

GEORGE E. GLOS