

1985

How to Attain Peace, Security and Justice

Louis B. Sohn

Recommended Citation

Louis B. Sohn, *How to Attain Peace, Security and Justice*, 19 INT'L L. 599 (1985)
<https://scholar.smu.edu/til/vol19/iss2/9>

This Short Articles, Comments and Casenotes is brought to you for free and open access by the Law Journals at SMU Scholar. It has been accepted for inclusion in International Lawyer by an authorized administrator of SMU Scholar. For more information, please visit <http://digitalrepository.smu.edu>.

How to Attain Peace, Security and Justice[†]

For forty years the nations of the world have been obsessed with nuclear weapons and the need to abolish them. The results are pitiful. During this period the store of nuclear weapons has grown to gigantic proportions, and all the disarmament efforts have not produced any tangible results. We are lost in the wilderness of numberless proposals to control various arms, to freeze their numbers or to cut them gingerly where it would not hurt anybody's military might. This clearly is not the road to a better future.

We must rethink our tactics. Instead of pushing through the impregnable

*Woodruff Professor of International Law, University of Georgia School of Law; Bemis Professor of International Law, Emeritus, Harvard Law School. Professor Sohn is Vice-Chairman of the Division of Public International Law of the ABA Section of International Law and Practice, and currently is Associate Reporter of the *Restatement of Foreign Relations Law of the United States (Revised)*.

†This address by Professor Sohn was made on the occasion of his acceptance of the Grenville Clark Prize, at Dartmouth College on October 29, 1984. The prize, which includes a \$15,000 honorarium, recognizes those who have espoused the causes of world peace, good government, academic freedom, civil rights, and personal liberty. Previous winners include: George F. Kennan, architect of the Marshall Plan; Jean Monnet, founder of the European Common Market; the Rev. Theodore Hesburgh, President of Notre Dame University; Jack Greenberg, former Director of the NAACP Legal Defense Fund; and Sydney Kentridge, a champion of civil rights in South Africa. The award hailed Professor Sohn as "one who, for more than forty years, has been a leader in efforts to devise non-military means for dealing with international disputes and thereby saving succeeding generations from the scourge of war." In accepting the award, Professor Sohn remarked:

I am greatly touched by the honor just received, the Grenville Clark Prize. For some twenty years, Mr. Clark and I worked closely together on the various editions of *World Peace Through World Law* (Harvard Univ. Press, 1958; 3d ed., 1966). He was a great man, working quietly behind the scenes for the security of the United States and a safer world. He was a great mentor and from him I have learned a lot about the workings of national and international politics and the role that can be played in them by law. He was a careful draftsman of legal texts, and he trained me in the meticulous use of words and the need to devote sufficient time to getting the best possible text. He was not interested in half-way measures, his goal was to find a complete solution, however complex it might be.

Maginot line of military and political unwillingness to give up the quest for superiority, we should follow the well-known strategy of going around the obstacle. Let them keep their weapons; let them deter each other from any silly move. While the stalemate exists, and there seems no end to it, all our resources, all our ingenuity, should be devoted to changing our world in such a way that no government would find it profitable to use force to achieve its international goals. When peace should become more satisfactory than war, not even a fool would dare to disturb it.

We need to go back to our drawing boards and start preparing plans not for disarmament but for the kind of world in which all the nations would find it possible to obtain the things they need by hard work rather than by rattling arms. This is a big assignment, but it may be easier to accomplish than trying to persuade our opponents to disarm. We have learned that even when clear superiority was on our side, the weapons we had were in fact not usable. Soon thereafter our superiority diminished. Our opponents preferred to spend their resources, to sacrifice the basic needs of their people, in order to keep up with us in the production of weapons. They matched us weapon for weapon, each technological invention making the world less safe for all of us. We probably cannot stop this mad arms race; it has the momentum of a toboggan running down an icy slope. We can, however, relegate it to its proper place of deterring both sides from attempts to use their arms to obtain their goal of forcing the other side to surrender their way of life and accept the ways of their opponents.

Once we accept the continuance of the arms race as an unavoidable reality and stop wasting our efforts on trying to obtain a ban on nuclear tests or a freeze on production of nuclear weapons, we may be able to devote our energy, our ingenuity, our combined forces to those positive steps that, if pursued with the same persistence we have devoted to arms control and disarmament, will bring us to a better world much faster than was possible a few decades ago. We have the means, we have the technology, to provide adequate living conditions for every man, woman and child in the world. To paraphrase the words of the United Nations Charter, "we the peoples of the United Nations" once we decide to concentrate on promoting "social progress and better standards of life in larger freedom," we shall find it easier "to practice tolerance and live together in peace with one another as good neighbors" than to try to keep peace by rattling sabers and making threatening speeches.

For a while we shall have both guns and butter, but if the world should become more livable, the people will become more mellow and would find it less necessary to continue the arms race. One day some journalist will notice that the production of new arms has actually stopped as the industrialists have discovered that it is more profitable to satisfy the demands of five billion anxious customers than to depend on competing for government

contracts bound in miles of red tape. Though stockpiles of weapons may be maintained for some time, after a while many of them will become obsolete or unusable because of lack of replacement parts.

For many years we have been too legalistic, insisting on drafting elaborate treaties with complex implementation machinery. In a peaceful world, no treaties and no expensive institutions will be necessary. The accumulated arsenals will become overlayed by dust and cobwebs; most of the weapons will be forged quietly into plows and pruning hooks. This was foreseen by men of vision long ago; we may see it happen in our own times, certainly in the days of the young people who are present here.

Between these glorious days and ourselves there is no impenetrable barrier, only our fears and prejudices. I have had students from all parts of the world, from many countries north and south, east and west. I have had some brilliant students from the best families in America and Europe, but I have had equally brilliant students from the poorest regions of our country, and from many countries, large and small, of Asia, Africa or Latin America. Many of my former students have obtained high positions in their home countries or represent them at the United Nations, in Washington and in other capitals of the world. They might have learned from me about the need for international cooperation, international law and international institutions. But I have learned also from them—that there are many more things that we have in common than things that divide us; that the people of many nations want the same, to live in peace, domestic and international, to live in a world where everyone would have a chance to advance according to his or her ability, to see their hope fulfilled that their children will live in a better world free from fear and want. These are not only our goals; they are the common goals of the people in all nations of the world.

Though authoritarian and tyrannical regimes still prevail in many, too many, lands, their rule is only possible in a world of poverty and fear. The miracle of modern communications, however abused in some places, makes it impossible to keep the people ignorant about the changes occurring in the world around them. As it happened already in a number of totalitarian countries, the very children of the domineering group are likely to be the leaders of the movement to join the human race, to live like the others are living, in conditions of stability, well-being, justice and freedom.

Two hundred years ago the world was changed by the American and the French revolutions. The ideals of that period are still valid today, and sooner or later they will prevail over the clay idols of the left- or right-wing dictatorships. This is another lesson I have learned from my students. They come to the United States not because we are the richest or the technologically most advanced country, but because from their history books they have learned that in America the people had the courage to free themselves from a foreign tyranny and to establish a new commonwealth based on principles

of democracy and freedom. Should we speak to them again in words of the fathers of our country, should we be able to persuade them, that we still "hold these truths to be self-evident, that all men are created equal; [that] they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness," we would soon discover how eager the young people all over the world will be to assist us in achieving these goals everywhere on earth. These are the goals in which they want to believe and no wonder that they expect us to lead toward a world of freedom, not a world chained in arms. We would betray our destiny if we should disappoint them.

To achieve this objective, the United States must in the first place return to the United Nations and bring it around to support the ideas that we and most of the peoples of the United Nations have in common. For too long the United States has adopted a negative attitude toward the United Nations, trying to "limit the damage" to our interests rather than leading it toward a better future for all the nations. There is no reason for the United States to adopt this defeatist attitude about the United Nations, to give it up without a fight. We need not throw away the good with the bad. We should not forget the origins of the United Nations; we should recall the spirit that motivated its creation. In the heady atmosphere of 1945, victory over fascism was not considered sufficient. Our leaders had to respond to the desire of the peoples of the world for security, for a better foundation for a peaceful world order. Despite great difficulties, this foundation was laid down in the Charter of the United Nations, a document that is much better than anything we could write today. We must remember also the positive accomplishments of the United Nations in the first twenty years of its existence when the United States was willing and able to lead the United Nations in safeguarding the peace. The United States was instrumental, in particular, in persuading the United Nations to take strong action in Korea in 1950, during the Suez crisis in 1956, and in the Congo in 1960.

We were also responsible for the greatest liberation movement in history. Only a few years ago, we celebrated the two-hundredth anniversary of our independence. That reminded us and the world that the United States was the first colonial territory that won independence from the British Empire. No wonder that we have retained an anti-colonialist attitude ever since, and that it was the United States that was originally responsible for the United Nations push to demolish the colonial empires that resulted in bringing to the United Nations more than one hundred new countries eager to take their place in this center of world affairs. But then the most inexplicable thing happened. Instead of helping the newcomers to democratize the United Nations in the spirit of our own tradition, the United States started in the 1960s to withdraw from leadership and—to use a phrase coined by one of our Representatives to the United Nations—we became the "head of the

opposition." It is ironic that at that crucial juncture the United States neglected the opportunity to continue its role as good neighbor and friend not only of Latin America but also of the new nations of Africa and Asia.

We permitted the Soviet Union to usurp the mantle of ally of the developing nations seeking justice from the United Nations. Of course, the Soviet Union was happy about the breakup of the colonial empires, as the capitalist world was temporarily weakened by this change in the global balance of power. Nevertheless, the Soviet Union became soon displeased, even more than the Western countries, that the new states were able to combine in a non-aligned bloc commanding a majority in the United Nations. In order to protect its interests, the Soviet Union made it immediately clear that it would continue to insist that all important matters must be reserved to the Security Council, where it had a veto, and that under no circumstances will it agree to diminish the scope of that veto power. At the same time, taking advantage of the negative position of the United States, which in fact protected thereby the crucial interests of the Soviet Union, the Soviet Union found it tactically feasible to pretend to be a friend of the developing countries. This position enabled it and its allies to goad the developing countries to adopt positions clearly unacceptable to the United States and other Western countries. It is often forgotten, for instance, that most of the provisions in the Charter of the Economic Rights and Duties of States that the United States found unacceptable were in fact proposed or sharpened by Soviet surrogates, and not by the leaders of the developing countries. It is wrong for the United States to consider that the developing countries have been following the Soviet Union at the United Nations; the contrary is more likely. The Soviet Union carefully watches the direction being taken by the developing countries on various issues and at a strategic moment it joins the parade and by skillful maneuvers manages at the end to be in the front line.

The United States can easily retrieve the leadership. The developing countries prefer to deal with the United States rather than the Soviet Union, as they have been disenchanted with Soviet inefficiency in economic matters and its inability to provide them with any meaningful assistance. The United States should reestablish close relations with the leadership of the non-aligned countries that is again in the hands of moderates. The United States should start a dialogue with them, listen sympathetically to their grievances and, together with our Western allies, put new life into the United Nations and specialized agencies so that together the West and the South would be able to reconstruct the world economy for the benefit of all.

All this can be accomplished whether or not the Soviet Union should be willing to cooperate. Once the more than three billion people of the Third World find that the industrialized nations of the West are willing to tackle seriously their problems, they—in return—will become more helpful in confronting the problems of international political and military insecurity.

Together we can find solutions that the Soviet bloc will find difficult to disregard.

Here again we need to go back to the basic concepts of the United Nations Charter, to which unfortunately in the last twenty years both the major and the smaller powers have not paid much attention. We need to replace our present system of international insecurity and anarchy with a balanced system of international security, providing for all countries, large and small, developed and developing, sufficient stability and security, so that they would be able to devote their energies not to piling up armaments but to providing their peoples with "better standards of life in larger freedoms" (U.N. Charter, Preamble).

The first step in that direction might be a moratorium not on nuclear weapons but on destabilization of regimes, on interference in domestic affairs and, in general, on any activity designed to fight ideological battles by direct or indirect use of force or by assisting groups engaged in civil strife or terrorism. The superpowers and other states or groups of states need to put an end to efforts to change the present precarious balance of power in various areas by using illegal means to replace politically, socially or economically incompatible regimes with more friendly governments. One cannot freeze the world forever, but change should be internally generated, not externally provoked. At least, we ought to try it for a specified period; let us have, for instance, a twenty-year moratorium on foreign subversive activities. During that period, we should devote our efforts to developing rules and procedures for facilitating peaceful change in place of violent change and for improving the economic well-being throughout the world.

One cannot stop completely the competition between various social and economic systems, but that competition should be directed into peaceful channels. The winners will be those who can provide a better life to their own peoples and who can at the same time generously assist those who are unable to raise their standards of living by their own efforts. The future belongs not to those who have the largest number of weapons of mass destruction, but to those who can best solve their own economic and social problems and can provide a beacon of hope for the rest of humanity that all nations' problems can be similarly solved. The American people have had a humble beginning only two hundred years ago in a country where there were very few blessings of civilization or comfort. They were able to change the face of a continent and build an economic and social system for more than two hundred million people that, though not perfect, provides an example for other nations of what can be accomplished by hard work within a democratic and egalitarian framework. This is the area in which we can compete effectively with any nation in the world. It is in our interest, and in the whole world's interest, to shift the world's attention from merely maintaining precarious peace and from producing ever-more frightening

weapons, to a more positive goal—"the economic and social advancement of all peoples." Instead of trying to find better ways of killing people, we should concentrate on improving peoples' lives and instilling in them the hope that their children will live in an even better and safer world.

While our opponents know what they want and believe that history is on their side and that they can achieve their goals in the not too distant future, today we don't seem to have any positive goals, and consequently our efforts are purely negative—to prevent the others from achieving their goals at our own or our own friends' expense. Americans dream today—as they did in the 1920s—of being left alone, of not being bothered by the woes of the world, of ending foreign entanglements. One cannot build a positive foreign policy on such foundations. The earth is not going to stop to allow us to get off. As we have to live on this planet, we might as well try to make the best of it. This requires a return to those great ideas that we have been proclaiming since the beginning of our great Republic. We have for two hundred years been a beacon of liberty, a hope for better life for many generations of people in all parts of the world. In many countries for many years the most cherished document has been an American immigration visa. We can show them now that they can live like Americans without having to leave their ancestral homes.

We have embarked in the past on some great crusades. We can do it again. We can lead the peoples of the world toward a better future, where all will live in peace as good neighbors, and where all will enjoy the benefits of freedom, democratic pluralism and justice. We have seen the animosities between the North and South disappear in this country; they have been replaced by a friendly rivalry devoted to providing a better life for all the people of the United States. The same can be accomplished on the global scale if we devote to it the resources and the imagination that we are spending today on creating ever more horrifying means of destruction. We have shown to the world that once we made up our mind we were able to put a man on the moon. We have to show the world now that there is a way of making all men and women continue to live on our planet in a peaceful and satisfactory manner. The golden age of the world was not in some distant past; it is right here in front of us. It is within our power to bring it about, and once we make up our mind to create it, we can do it.

