INTERNATIONAL PROPAGANDA AND MINIMUM WORLD PUBLIC ORDER

WILLIAM V. O'BRIEN*

INTRODUCTION

The author's original mandate was to prepare "A Case for Unlimited Propaganda," to oppose "A Case for Controlled Propaganda" in a "debate" with Professor von Glahn. However, the author found it impossible to reconcile a case for unlimited propaganda with existing international law and responsible foreign policies. This paper will not support unlimited propaganda because it is impossible to reconcile such a concept with existing international legal obligations binding on all states. Nor will it attempt to make a case for maximum freedom of international propaganda based on some theory of the desirability of a competition of ideas from which greater truth and understanding might result. Likewise eschewed in this paper is any notion of "just" propaganda which, in virtue of some higher rights, should prevail over the ordinary positive international law. Rather it will be the author's contention that meaningful legal regulation of international propaganda is so difficult at best and so inconceivable in the present divided world, that international law is not well served by encouraging the belief among its supporters that substantial progress in this problem area is imminent. On the other hand, it will be argued that there are normative imperatives and practical necessities for directing the attention of statesmen to their responsibilities and opportunities to contribute to patterns of behavior leading to greater international legal control of propaganda.

This position will be substantiated, first, by an appraisal of existing international law relevant to international propaganda and, second, by a brief summary of the basic obstacles to more successful enforcement of the existing law and to the development of additional law. In the discussion which follows stress will be placed upon the view that "the international law of propaganda" is most profitably treated not as a separate chapter of law but in the context of broader factual and legal categories.

First, as a phenomenon of international politics, propaganda will be treated as a part of McDougal's "ideological instrument" which, together with the diplomatic, economic, and military instruments constitute the principal means utilized in international politics.[1] The ideological instrument has been defined as follows:

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* B.S. (Foreign Service) 1946, M.S. (Foreign Service) 1948, Ph.D. 1953, Georgetown University; special student, 1954-56, Georgetown University Law School. Visiting Research Professor, 1963, Max Planck-Institut für Ausländisches Öffentliches Recht und Völkerrecht. Professor of Government and Chairman of the Institute of World Polity, Georgetown University. Co-author [with Walter H. E. Jaeger], INTERNATIONAL LAW, CASES, TEXT-NOTES, AND OTHER MATERIALS (1958). Editor, *World Polity*.

[1] MYRES S. MCDOUGAL & F. P. FELICIANO, LAW AND MINIMUM WORLD PUBLIC ORDER 27-36 (1961).

> The use of the ideological instrument commonly involves the selective manipulation and circulation of symbols, verbal or nonverbal, calculated to alter the patterns of identifications, demands, and expectations of mass audiences in the target-state and thereby to induce or stimulate politically significant attitudes and behavior favorable to the initiator-state. It includes, in combination with other instruments, all the techniques of propaganda, infiltration, subversion, and *coup d'état* which have been refined and developed to such high efficiency as to have given rise to repeated proposals to condemn their use for certain objectives as a distinct form or mode of aggression.[2]

It is believed that both the differentiation of instruments within the over-all arsenal of instruments of foreign policy and the identification of the use of propaganda as an integral element within the broader concept of the ideological instrument properly indicate the importance and complexity of efforts to bring propaganda under international legal regulation.

Second, as a subject treated by international law, propaganda falls within the following categories:

(1) the law regulating the threat or use of force;

(2) the law governing dictatorial intervention (to the extent that such intervention does not fall within the first category);

(3) the law of international responsibility for acts injurious to sovereign states originating with another state's jurisdiction; and

(4) the corpus of positive legal obligations to promote world law, order, and justice.

It is believed that existing functional international law relating to various means of spreading propaganda—international communications law, for example—is most usefully treated within the foregoing categories. It is artificial and comparatively irrelevant to isolate the subject matter in primarily functional legal categories.

I

EXISTING LEGAL LIMITATIONS ON INTERNATIONAL PROPAGANDA

There is no dearth of legal limitations on international propaganda. The hard questions concern their meaning and their effectiveness. First, use of propaganda as part of the ideological instrument is limited by the prohibition against the threat or use of force embodied in article II (4) of the U.N. Charter and supported by an overwhelming consensus expressed in legal documents since the time of the League Covenant. Determination that use of warmongering propaganda[3] violates the prescription prohibiting the threat or use of force against the territorial integrity and political independence of a state will presumably be made in the broader context of a

[2] *Id.* at 29.

[3] For a definition and discussion, see JOHN B. WHITTON & ARTHUR LARSON, PROPAGANDA TOWARDS DISARMAMENT IN THE WAR ON WORDS 10, 62-82 (1964).

finding that some of the other instruments—diplomatic, economic, military—are also being used in a coordinated pattern of aggression. This brings us to one of the central and seemingly insoluble problems of international law. Two things, however, are clear:

> *First*, the illegality of aggressive recourse to force in violation of article II (4) is established beyond dispute. So great is the consensus on this point that it remains the foundation for the existing minimum world public order despite all violations of that order.
>
> *Second*, the definition of aggression has thus far not been the product of the application of formulae systematically arrived at in advance by authoritative decision-makers. Rather, aggression has been defined case by case, primarily through the process of claims and counterclaims predominantly by national entities interacting either bilaterally or through the processes of international organizations. Efforts at more systematic and generally acceptable definitions of aggression have, notoriously, been thwarted by, among other things, ideological and political differences and the reluctance of states to agree in advance to definitions of aggression which might restrict them inordinately to the detriment of their vital interests.[4]

In these circumstances, it would seem that students of international law and relations should now turn to detailed studies of some of these cases wherein there was a substantial consensus that aggression occurred and that use of the ideological instrument constituted an important component of the aggressive behavior—for example, the struggles in the Middle East and Malaysia, and Castro's machinations in Latin America. It would seem that "practice" in the sense of international agreements, resolutions, *voeux*, unilateral declarations, and the like, as it relates to the problem of international propaganda has been substantially collected and analyzed by Professors Whitton and Larson.[5] What they have done in essence is to collect all of the more formal evidences of states' practice on this subject much in the way that Brownlie has surveyed this kind of practice with respect to the broader law regulating resort to force.[6] What appears to be needed now is a closer and deeper look at that more subtle "practice," the patterns of actual behavior emerging from the international political process.

Next we must turn to the problem of indirect aggression, a necessarily vague category which straddles the line between the law regulating recourse to armed coercion and the law relating to essentially nonmilitary dictatorial intervention. The ideological instrument usually assumes commanding importance in indirect

[4] MCDOUGAL & FELICIANO, *op. cit. supra* note 1, at 61-62; see generally JULIUS STONE, AGGRESSION AND WORLD ORDER (1958).

[5] WHITTON & LARSON, *op. cit. supra* note 3 [hereinafter cited as WHITTON & LARSON].

[6] IAN BROWNLIE, INTERNATIONAL LAW AND THE USE OF FORCE BY STATES (1963).

aggression. Indirect aggression is so termed because of ambiguity as to the relationship of the alleged indirect aggressor to attacks by primarily nonmilitary or subconventional military means against the territorial integrity and political independence of another state and because of uncertainty as to whether the means employed, even if they are traceable to the alleged indirect aggressor, constitute "the threat or use of force." Despite obvious problems of definition and interpretation, it is clear that international law presently recognizes and prohibits indirect aggression. It is equally clear that subversive propaganda falls within this prohibition. Subversive propaganda may therefore constitute an important element in the crime of indirect aggression and contribute to a state of affairs warranting enforcement action by the United Nations or, more likely, measures of individual and collective self-defense. Following the logic of the concept of self-defense, a victim of indirect aggression would have the right if it so desired to engage in otherwise prohibited propaganda against the indirect aggressor.[7]

As in the determination that aggression has occurred, judgments about the propriety of self-defense measures against alleged indirect aggression are usually made on a case-by-case basis through the decentralized process of claims and counterclaims by interested international persons. If more universal sources such as resolutions in the U.N. or at regional conferences are persuasive authority that there is a crime of indirect aggression, they are generally not too helpful in determining the content in specific instances of the prohibited act. It again appears to be necessary to study the evolving law on this subject through the collection and analysis of cases about which interested parties and third parties have expressed an opinion. From such studies guidelines for the evaluation of allegedly subversive propaganda and of countermeasures of self-defense may emerge. Our experience with efforts to define "aggression," "indirect aggression," and "intervention" suggests that this approach may be more useful than that of attempting scientific codification of prescriptions regulating indirect aggression generally and the international propaganda components thereof.

Moving down the spectrum of international coercive measures as viewed from a legal perspective, we come next to impermissible dictatorial intervention not amounting to "the threat or use of force." The general principle of international law prohibiting dictatorial intervention, reinforced by general and particular conventional international law, as well as customary international law, prohibits dictatorial interference in the internal or external affairs of a state even when such interference does not amount to the use or threat of force. A great part, perhaps the bulk, of international propaganda of a patently unfriendly character falls into this category.

Legal regulation of propaganda of this kind presents a problem which thus far

[7] On indirect aggression, see PAUL W. BLACKSTOCK, STRATEGY OF SUBVERSION (1964); MANUEL R. GARCÍA-MORA, INTERNATIONAL RESPONSIBILITY FOR HOSTILE ACTS OF PRIVATE PERSONS AGAINST FOREIGN STATES (1962); 1 DANIEL P. O'CONNELL, INTERNATIONAL LAW 328-31 (1965).

has baffled international lawyers and statesmen. To an even greater extent than in the case of the law regulating recourse to force, the universal agreement that dictatorial intervention is illegal is vitiated by the problems of defining this delict and of providing remedies for victims of illegal intervention.[8] What little relief is available to victims of illegal intervention seems generally to be of a political rather than a legal character. The conviction that this is true leaves the author very skeptical about the practical importance of the various ingenious suggestions of Professors Whitton and Larson and others concerning the identification and legal condemnation of technically illegal international propaganda.[9]

Closely related to the foregoing is the general international law of international responsibility. It is clear that all states have an obligation to prevent the commission of acts within their jurisdictions which endanger the territorial integrity and political independence of sovereign states with which they are at peace. The rule goes far in its requirements for responsibility for private as well as public acts originating in its jurisdiction. A particularly well-established corollary of this rule requires suppression of, and responsibility for, revolutionary expeditions and so-called terrorist plots and activities aimed at another state. Given the well-known importance of propaganda in modern international relations, it is as illegal for a state to condone or encourage warmongering, subversive, and, in some cases, defamatory propaganda against another state as to contribute bases and materiel to an aggressive invader. Having said this, however, we must face the same problems of enforcement already mentioned. Responsibility for delictual propaganda is clear; practical remedies must depend upon the more or less fortuitous functioning of international organization and the possibilities for permissible measures of self-help.

Moreover, the rifts and conflicts of our era have notoriously eroded the traditional concepts of "peace" and "friendly" relations. The facts of the several existing cold wars collide head-on with the underlying assumptions and goals of the traditional law of international responsibility. For this reason and in view of the difficulties of obtaining enforcement of the law regulating international conflict and intervention, this paper will not examine in detail the functional law relating to international communications and other subjects touching international propaganda which are well set forth by Professors Whitton and Larson in their book and in their contributions to this volume.[10]

Last, we must acknowledge that in addition to the prescriptions limiting the use of propaganda as part of delictual recourse to force or dictatorial intervention there are equally important obligations on all nations to promote the goals of peace,

[8] Burke, *Legal Regulation of Minor Coercion*, in ESSAYS IN INTERVENTION 97 (Stanger ed. 1964).

[9] WHITTON & LARSON 183-273.

[10] Larson, *The Present Status of Propaganda in International Law*, pp. 439-51 *supra*; Whitton, *The Problem of Curbing International Propaganda*, pp. 601-21 *infra*.

cooperation, pacific settlement of disputes, international economic and social justice, and disarmament. These obligations both reinforce the prescriptions against warmongering, subversive, and defamatory propaganda and oblige states to make positive contributions to the realization of these goals through, *inter alia*, the propaganda policies they pursue.[11]

In summary, therefore, no state or individual purporting to respect international law could contend that there is an unlimited right to engage in international propaganda. It should be emphasized that this in itself is a sign of progress. The same statement could not have been made with equal confidence in, say, 1914. In any event, the issue is not *whether* international law should regulate propaganda but *how*. One's answer naturally is determined by one's picture of the international law-making process. Some international law writers, confronted with the widespread violation of the norms summarized above, see the problem as one of codification and development of relevant rules and legal institutions. Without discounting the importance of such efforts, it is the contention of this paper that the more realistic and ultimately more fruitful approach to the problem is to proceed in the following manner:

(1) study the claims, counterclaims, and third-party judgments of controversial instances of recourse to propaganda as part of the ideological instrument;

(2) seek points of consensus, however modest, with respect to the customary law relevant to international propaganda and the ideological instrument;

(3) study the degree of effectiveness of controversial uses of the ideological instrument in order to determine forms or circumstances of its use that appear to have been ineffectual or disproportionately mischievous and hence the more indefensible in that they involved violation of the law without a commensurate selfish gain. It is always useful to buttress arguments based on normative obligation with utilitarian arguments of self-interest and there is reason to believe that, in the tricky field of propaganda, law and self-interest properly perceived may be much closer than proponents of dubious forms of psychological warfare would have us believe.[12]

(4) seek to convince decision-makers that their policies concerning the use of the ideological instrument should be based, first, on an awareness of their legal obligations and their opportunity to contribute to the development of international law rather than on their knowledge that sanctions underlying the law relating to propaganda are virtually nonexistent and that violations of the law can be expected to continue. Second, proponents of international law should seek to persuade decision-makers that there are grave dangers in irresponsible recourse to the ideological instrument and positive benefits in responsible policies with regard to propaganda.

[11] See U.N. CHARTER arts. 1, 2, for the fundamental basis for these international obligations.

[12] See BLACKSTOCK, *op. cit. supra* note 7.

To the extent that such efforts are successful in nations such as the United States, international practice tending to produce customary international law will improve. To the extent that such practice may educate other states which presently indulge in unlimited propaganda and, possibly, induce more responsible behavior, the basis may be laid for more systematic efforts for codification and development of rules and institutions for control of international propaganda. As indicated at the outset, however, it is believed that the prospects for meaningful progress in this field are modest and that a very conservative attitude should be taken in appraising the scope and effectiveness of universal and even regional international law as it bears upon the problem of international propaganda. Let us, then, examine some of the reasons which support this conservative analysis.

II

OBSTACLES TO THE DEVELOPMENT OF MEANINGFUL INTERNATIONAL LEGAL REGULATION OF INTERNATIONAL PROPAGANDA

The most fundamental obstacle to regulation of international propaganda results from philosophic-ideological rifts which divide the world. Men differ profoundly on the definition of ultimate reality and, consequently, on the interpretation of human events. Granted that the problems of international propaganda relate as much to its effects as to its truthfulness, truthfulness is still the starting point in any evaluation of propaganda. But we know that there exist a number of fundamentally different approaches to the quest for ultimate truth. Two have particularly influenced contemporary history, the Judaeo-Christian and the Marxist-Leninist worldviews. As we know, these differences are far from academic since they influence the thoughts and actions of governing elites and substantial portions of the citizenry in the world's major powers. If we add the factor of missionary zeal which is present in both camps we have a situation that would seem to defy efforts to obtain global consensus on regulation of propaganda which is vital to the propagation of each side's version of "truth."

For example, even if we remove the traditional communist words of scorn (for examples, "feudal oppression," "exploiters," "warlords," and "lackeys") from the communist propaganda attacks quoted by Professors Whitton and Larson,[13] the underlying core of the message is "true" when viewed from a communist perspective. To predict the collapse of the present political system in Iran would appear, from a Marxist-Leninist viewpoint, to be as scientific and objective as a prediction by a psychiatrist that an individual was destined for mental illness. On the other hand, one need not be a Kremlinologist or Pekinologist to predict that conspicuous representatives of the Judaeo-Christian worldview will probably not fare very well under Marxist-Leninist regimes and that serious threats to their lives, property, and human

[13] WHITTON & LARSON 91-92.

rights are a distinct possibility. Propaganda reflecting this point of view is certainly "true," but it may also be "warmongering," "subversive," or "defamatory." The same can be said of Western propaganda of a positive kind which asserts that man can only prosper in societies that conform to God's law—or perhaps to the secular principles of a free society.

At this point, of course, the proponents of control of international propaganda turn to their municipal law analogies of libel, slander, treason, and the like and remind us that such limitations on free expression arise not solely or even primarily out of a concern for truth but out of the need to suppress breaches of the public order that may result from the exercise of the right of expression. Thus the truthfulness of a statement may not redeem its antisocial or illegal effects. We might then conclude that, drawing by analogy from this concept, states holding different views about the meaning of "truth" should restrain themselves from expressing these views in ways that patently disturb the world public order.[14]

The difficulty here is that these fundamentally different views of reality divide nations in their attitudes toward the world public order. The law-makers and acquiescing citizens who decide that in certain circumstances the national public order is a higher value than freedom of expression obviously agree substantially that the existing order is desirable and worth protecting. Do we have anything like this consensus with respect to the world public order? Most authorities seem to think not. Increasingly we encounter expressions such as "the law of minimum world public order"[15] or "the international law of coexistence" which is contrasted with " 'universal' and 'regional' law of cooperation."[16]

The well-known conclusion that such modern authorities reach is that, despite the obstacles to a true world public order, a minimum world public order can and in fact does exist. It is based, in effect, on a tacit agreement to disagree but to avoid expressing the disagreement in ways that would be disadvantageous if not ruinous for all. This means in practice that the form of the world public order and the content of universal international law is determined more or less pragmatically and often informally or tacitly rather than by systematic agreement from a basic consensus. Consequently, the value attached to this minimum world public order and to any particular rules relating to its maintenance tends to be variable. Whereas judgments about the comparative value of a domestic public order and freedom of expression taking forms that threaten that order would presumably lead toward protection of the domestic order, the same assumption cannot necessarily be made with respect to the relationship between the world public order and international propaganda.

It would appear, then, that the normative imperative requiring some limitation on

[14] *Ibid.*

[15] MCDOUGAL & FELICIANO, *op. cit. supra* note 1.

[16] WOLFGANG G. FRIEDMANN, THE CHANGING STRUCTURE OF INTERNATIONAL LAW (1964).

international propaganda arises not from a consensus over what natural law thinkers call "the international common good" but from the pragmatic necessities of coexistence in a dangerous world of conflict. Thus, propaganda that threatens to incite World War III would be judged impermissible—indeed, criminal—by all responsible members of the minimum world public order, whatever their ideological persuasion. But less dangerous propaganda which thwarted progress in arms control and disarmament and pacific settlement of disputes might be considered permissible because its alleged truth and its ideological-political necessity outweighed the propagandists' concern for the minimum world public order.

A second obstacle to significant legal regulation of international propaganda arises from the fact that the deep-rooted differences just discussed, along with other causes, produce persistent and widespread international conflict. Conflict and drastic change are endemic to the contemporary world society and to most national societies. Separate from, even though often arising out of or influenced by, the fundamental rifts just discussed, there is an ethos of change in most of the world. This ethos encourages "ends-justify-the-means" attitudes which have little or nothing in common with the attitudes of law-makers and citizens in advanced legal orders which place sophisticated limitations on freedom of expression in the interests of the commonweal.

The intermingling of political and ideological activity both within and between existing states that characterizes our time clearly diminishes respect for public orders at all levels—from local to national to global. The statesmen who developed rules of international law prohibiting hostile acts originating within a state's jurisdiction and having effect within the jurisdiction of a friendly power were content with their own public order and sufficiently content with the public orders of most of the other states so that they could support a norm that valued order and stability over violent change. Mutual respect, protection of vital interests, and nonintervention were the rule in that world. Thus the British representatives at the Alabama Claims Arbitration came to see that a mischievous source of revolutionary change ought to be discouraged by a rule prohibiting even tacit encouragement of support to those in rebellion against a friendly power.[17]

But the revolutionary elite that establishes a new state or takes over an old one is generally not at all disposed to respect the rights of other, quite differently organized and oriented, public orders. Indeed, such revolutionaries often fear, detest, and seek to destroy their neighbors' public orders. In any event, for these revolutionary elites order, stability, and mutual respect of sovereigns are all values that are subordinate to the highest of all values, rapid and decisive change. Since propaganda is the most important and most available instrument of such elites there is

[17] THOMAS A. BAILEY, A DIPLOMATIC HISTORY OF THE AMERICAN PEOPLE 409 (5th ed. 1955); PERCY E. CORBETT, LAW IN DIPLOMACY 153 (1959).

(from their standpoint) both a normative and practical right and duty to use propaganda in their assaults on "unjust" public orders—local, national, regional, global.

In addition to these fundamental forces working against respect for order in our age, there is the resultant impact of psychological and sociological characteristics of individuals and groups which bring about conflict and change. Attitudes and habits of expression and behavior are developed which are shocking to the supporters of the *status quo.* Thus, as we view the attitudes, language, and tactics of various advocates for change in *American* society we are not encouraged to believe that the world community is ready for an early return to a public order based on mutual respect and good manners. Nor are we likely to find more genuine enthusiasm for legal restraints on propaganda than exists within domestic activist groups for stricter rules regulating strikes, sit-ins, boycotts, and demonstrations in defiance of public order.

There are, then, in the new or transformed nations, many elites—some enjoying strong popular support—who believe that they have an unlimited right to lash out against all that they see as wrong in the world. They further assume the necessity and rectitude of preserving their own systems and of advancing their political interests and ideological causes through the use of the ideological instrument, their strongest instrument of foreign policy.

III

INTERNATIONAL LAW RELATING TO INTERNATIONAL PROPAGANDA AND THE PRACTICE OF STATES

In the light of the foregoing considerations it is not surprising that, despite widespread adhesion to conventions explicitly or implicitly condemning warmongering, subversive, and defamatory propaganda,[18] despite extensive formal and informal discussions of the problems some of which have produced draft conventions and codes on the subject,[19] and despite the tremendous volume of charges and protests which specifically acknowledge the relevant legal prescriptions and apply them to the policies of other states,[20] all states appear to engage in propaganda activities which could be termed legally impermissible. To the extent that it is normatively binding, international law ultimately rests upon a feeling of obligation on the part of its subjects to obey it. Or, to use McDougal's formulation, international law rests upon

[18] See, *e.g.*, the International Convention Concerning the Use of Broadcasting in the Cause of Peace, Sept. 23, 1936, 186 L.N.T.S. 301(H) (1936) (effective April 2, 1938), 32 AM. J. INT'L L. SUPP. 113 (1938).

[19] See, *e.g.*, Draft Code of Offences Against the Peace and Security of Mankind, adopted by the International Law Commission in 1951, U.N. Doc. No. A/1858, A/CN.4/48, ch. 4, 45 AM. J. INT'L L. SUPP. 123, 128 [arts. 2(5), 2(6)]; Draft Convention on Freedom of Information, U.N. OFFICE OF PUBLIC INFORMATION, EVERYMAN'S UNITED NATIONS 185 *ff.* (U.N. Pub. Sales No. 1952.I.9), and Draft Convention on the International Right of Correction, 1952 U.N. YEARBOOK 463-65 (U.N. Pub. Sales No. 1953.I.30.

[20] See WHITTON & LARSON 12-180 *passim*; Whitton, *Propaganda and International Law*, 72 HAGUE RECUEIL 545-59 (1948); 1 O'CONNELL, *op. cit. supra* note 7, at 329-31.

the "expectations" of authoritative decision-makers about the behavior of states that purport to be acting legally.[21] As one deduces obvious corollaries concerning international propaganda from relevant functional international law, from the law regulating recourse to force, dictatorial intervention, and international responsibility, and from the law enjoining states to support world public order, what are one's expectations?

It is submitted that expectations are, first, for only intermittent, variable and marginal observance of these legal prescriptions. But, perhaps more important, one anticipates that the states as they violate these norms do not appear to be conscious of doing wrong. In many instances, on the contrary, states manifestly engage in technically illegal propaganda with a feeling of rectitude ranging from a conviction that they have a right to disseminate their propaganda to the belief that they have a duty to do so in the interests of mankind as well as for their own interests. Until this kind of attitude is altered it would seem impossible successfully to deal with the problems of international legal regulation of propaganda.

There is a further aspect of this problem, moreover, that is more difficult to prove. One wonders whether, notwithstanding the repeated acknowledgments in this century of the potency and dangers of international propaganda (so well catalogued in Professors Whitton and Larson[22]), the widespread tendency to ignore prescriptions limiting propaganda may result in part from a failure of statesmen to take the problem seriously. Have the words that statesmen have uttered, written, and endorsed with binding adhesions really penetrated their consciences so as to have effect when those statesmen make their policy decisions? Does the very subtlety of propaganda as a means of coercion result in its use without the kind of crisis of conscience which presumably would precede a decision to employ more direct forms of coercion, such as the economic or military instruments of foreign policy?

Concern over this possible explanation for the gap between law and practice relating to international propaganda is obviously particularly acute among those of us whose hopes for the development of a minimum world public order rests more with responsible decision-makers who contribute good examples and potential precedents than with drafters of codes and participants in international conventions. The point of hope is not the outraged victim for whom little remedy other than retaliation in kind is presently available. Rather, hope for improved state practice in the matter of propaganda lies with potential senders of propaganda who must be made aware of the importance and legal implications of the use that they make of propaganda. But the first requirement of this approach obviously is a clear recognition by responsible decision-makers that there is both a practical and a legal problem.

At the risk of inviting charges of parochialism, it must be submitted at this point

[21] See, *e.g.*, McDougal, *International Law, Power and Policy: A Contemporary Conception*, 82 HAGUE RECUEIL 137, 170-71 (1958); MCDOUGAL & FELICIANO, *op. cit supra* note 1, at 45-49.

[22] WHITTON & LARSON 1-52.

that United States decision-makers seem, on the whole, to have understood that there is a problem. The protests of Americans who would have the United States take the ideological offensive are a measure of the reluctance of this country to engage in propaganda that could be termed impermissible under international law. Yet this is a never-ending problem, and a good record to date does not preclude the possibility that a nation as sorely tested as the United States has been and will be might be tempted to experiment with the potent and dangerous possibilities of legally impermissible propaganda. Those who advocate restraint in the use of the ideological instrument, therefore, should constantly urge upon their government the necessity of keeping this problem in mind and of dealing with it responsibly.[23]

For the problems of international propaganda will not, it is believed, be substantially alleviated in the foreseeable future as a result of clearer definitions of crimes, rights, and duties or by new legal rules or ingenious attempts to provide sanctions to enforce the old ones. The essence of the problem is that, on the one hand, the ideological instrument is too valuable to contemporary international actors and too complex and that, on the other, community consensus is too lacking for the successful employment of sophisticated approaches borrowed from advanced legal orders. The path to progress—and it promises to be very, very slow—lies in studying the realities of our divided world and in seeing how they can be gradually influenced and alleviated by enlightened, generally unilateral, contributions to minimum world public order in so far as international propaganda and the broader ideological instrument are concerned.

[23] Two of the most persuasive conservative views on this subject are L. JOHN MARTIN, INTERNATIONAL PROPAGANDA (1958), esp. 107-08, and JULIUS STONE, LEGAL CONTROLS OF INTERNATIONAL CONFLICT 318-23 (1954).