

THE PROBLEM OF CURBING INTERNATIONAL PROPAGANDA

JOHN B. WHITTON*

Ever since the first leader faced his people, governments have been busy communicating. Whether primitive or sophisticated in character, and whether monarchy or democracy, dictatorship or free regime, they are forever pleading, explaining, justifying, boasting, or threatening as they communicate with the home population, foreign peoples, or the world at large. This process was once an art, as when Demosthenes warned the Athenians of foreign danger, Franklin D. Roosevelt told the Americans "the only thing we have to fear is fear itself," or Winston Churchill made his "blood, toil, tears and sweat" appeal to the British people, but it has now become a science, supported by opinion polls, expensive computers, and high-powered radio transmitters reaching to the ends of the earth. We have our official departments of information, sometimes frankly entitled ministries of propaganda, and these agencies are not interested solely in the truth, the whole truth, and nothing but the truth.

Now while this communication process yields a certain amount of factual information, the essentials of propaganda—including coercion, the attempt to manipulate the minds of the "target" audience in pursuit of an objective often hidden in the mind of the communicator—are often present. In the United States, for instance, the Department of Agriculture may give out figures on the wheat crop, or the Federal Reserve may publish statistics on the gold coverage for this year as compared with last. This is straight information; presented in a college course on economics such data would form a minute part of the educational process. But when a government department issues statistics of this nature, it may withhold certain facts or slant others. Here comes the propaganda—the communicator is not interested in the truth as such but instead uses it to accomplish some definite end. The government strives to persuade the citizens that it is doing a good job, the specific goal being a high rating on the next Gallup poll or a vote of approval at the next election. The objective may be simply to stay in power, the main preoccupation of governments since the beginning of time.

In the international field the same process goes on. In the United States, so-called "information" or "facts" are issued by the government to persuade the world that the American economy is ahead of the Soviet Union's or that we are making great progress in the field of civil rights. The objective here is not entirely enlight-

* A.B. 1916, J.D. 1920, University of California; LL.D. 1946, University of Bordeaux. Associate Professor of Politics (emeritus), Princeton University. Founder of the Princeton Listening Center, 1939. Co-author [with Harwood L. Childs], *PROPAGANDA BY SHORT WAVE* (1942); [with Arthur Larson], *PROPAGANDA: TOWARDS DISARMAMENT IN THE WAR OF WORDS* (1964).

enment, education, or information. Some specific goal is sought, not only the approbation of the voters at home but also the approval and good will of the populations of Europe, Asia, and Africa so as to enhance American prestige and influence abroad. This is part of the power struggle. In the hands of an unscrupulous government, communications of this kind can be welded into a vicious weapon of distortion and defamation, capable of arousing a people against its government and one nation against another.

Recognizing the usefulness of propaganda as a factor in the continuing power struggle, we can appreciate the magnitude of the task facing us as we seek to fix limits to the use of a weapon that may take any form from mild persuasion to all-out psychological warfare. We must decide if we are willing, or able, to say in effect to a powerful and ambitious nation, intensely devoted to its own well-being and fearful for its security, "You may communicate at will, using the arm of publicity and information as you like, provided that you stick to the truth. There may be other governments hostile to you, some even dangerous, that you would like to see overthrown. But under the United Nations Charter, you may not use force to this end, except, of course, in self-defense. You may not resort to psychological warfare either; you must not slander the President of an opposing regime, and you may not send subversive messages to its citizens urging them to revolt. You must not, by broadcasting inflammatory messages, incite the people of a third state against any nation, even if it is your enemy, nor engage in propaganda for war." If we take such a step, or any of several similar ones, we are endeavoring to blunt a formidable, comparatively cheap, and highly effective weapon of world politics, which, when wielded by means of radio, was ranked by Goebbels as the eighth Great Power.¹ It may some day be possible to control this weapon, but one should not embark on this new holy war without a full realization of the complexity of the task.

There is one fundamental factor, however, which should be of considerable assistance. Among both states and individuals, but by no means to the same degree, one important common value is shared by all, namely an innate respect for truth. No man likes to be shown up as a liar. This may hurt his conscience, or it may lose for him the respect of his peers and be otherwise harmful to his interests in the world. And no government relishes the revelation that it has made a statement knowing it to be false. It took Britain a long time to recover from the embarrassment caused by the false atrocity stories it had issued during the First World War; for one thing, it destroyed for a considerable period the credibility of the charges of German atrocities in the Second World War, charges incredible in themselves but nevertheless horribly true. Coming to recent history and the famous U-2 incident, we can recall the embarrassment to the Pentagon and the State Department, not to mention

¹ Z. A. B. ZEMAN, *NAZI PROPAGANDA* 50 (1964).

President Eisenhower himself, when, after his denial of any illegal action on our part, the Soviet charges were proved to be accurate.

This common value, an innate respect for truth, is an existing and substantial check on the use of hostile propaganda by governments and private individuals. It is particularly effective when the aggrieved party is assured of some effective means of refuting the false charges since the mere knowledge that truth may be put forward acts as a preventive. But this deterrent effect of truth depends upon a certain degree of freedom of information. The dictator who controls all media of communication can slander a foreign state and its leaders without fear that this will boomerang if and when the people learn the truth. In view of the ultimate inadequacy of truth as an antidote to propaganda in the world today, what checks, curbs, or other remedies are available to the nations?

I

EXHORTATIVE MEASURES

Various resolutions and other measures without obligatory force have been advanced in the hope that their persuasive influence might curb some of the worst evils of international propaganda. Many such resolutions have been voted by both governmental and nongovernmental institutions. One of the best known is the condemnation by the United Nations of the publication of false news and the use of propaganda for war. Numerous impressive *voeux* of this nature were voted at the 1936 League of Nations conference on broadcasting² and the 1948 United Nations Conference on Freedom of Information.³ We can refer also to the many codes of ethics voted by nongovernmental organizations, both national and international, of the various media.

While exhortation may not be, strictly speaking, a remedy for the problem, it must not be forgotten that in the field of law actual legislation is almost always preceded by a long process of preparation, including pressure from authoritative private sources.⁴ In the international field the final convention—for instance, the Hague Conventions and the Pact of Paris—comes as the culmination of long effort, including numerous studies, conferences, and *voeux*. No one can deny that such exhortatory documents as the Declaration of Human Rights, although without legal force, have had immense influence on nations and individuals all over the world, the provisions thereof being written into many constitutions of newborn states. It will suffice to cite here several of these historic documents dealing with hostile propaganda:⁵

² International Convention Concerning the Use of Broadcasting in the Cause of Peace, 186 L.N.T.S. 303 (1938).

³ U.N. Doc. No. E/Conf. 6/ci./19 (1948); see Whitton, *The United Nations Conference on Freedom of Information and the Movement Against International Propaganda*, 43 AM. J. INT'L L. 73 (1949).

⁴ "Persuasion, public opinion, and a sense of decency may also encourage the correction of mistakes, the presentation of the other side, and a greater eagerness to be accurate." I ZECHARIAH CHAFEE, JR., *GOVERNMENT AND MASS COMMUNICATION* 174 (1947).

⁵ JOHN B. WHITTON & ARTHUR LARSON, *PROPAGANDA: TOWARDS DISARMAMENT IN A WAR OF WORDS passim* (1964) [hereinafter cited as WHITTON & LARSON].

1. In 1931 a League of Nations Preliminary Draft General Convention to Improve the Means of Preventing War recognized that aggressive propaganda against a foreign power may, in certain circumstances, constitute a veritable threat to the peace of the world.⁶

2. In 1947, the General Assembly of the United Nations unanimously adopted the following resolution: "The General Assembly: . . . (1) condemns all forms of propaganda, in whatever country conducted, which is either designed or likely to provoke or encourage any threat to the peace, breach of the peace, or act of aggression."⁷

3. The Draft Code of Offenses Against the Peace and Security of Mankind, formulated in 1952, includes as one of such offenses the fomenting of civil strife and acts of terrorism, and condemns any "direct incitement" to commit such offenses.⁸

Other exhortative measures consist of the numerous resolutions voted by members of the communications media at their official meetings. These are in the nature of self-disciplinary measures, as communicators from many countries have again and again condemned the publication of false news and decried the issuance of comment as well as news stories calculated to promote ill will, even war, among the nations. Notable among the accomplishments of media representatives was the formulation of codes of ethics for journalists and radio and television broadcasters and the creation of unofficial courts where violations of ethical standards could be aired. It is significant, however, that the most active movement for such self-regulation on an international scale came roughly between 1900 and 1930, before the new totalitarian regimes had destroyed all hope of freedom for many individual writers and speakers.⁹

Under the auspices of the United Nations, a new drive for a code of ethics was initiated, and a number of meetings resulted. A draft code, the work of the U.N. Conference on Freedom of Information, was completed in 1950, but it came to naught before the persistent opposition of the closed states and even many of the free states, although for different reasons.¹⁰

If all individual journalists and the owners of communications media respected the rules of these codes (of which the United Nations has published an excellent survey),¹¹ there would be few incidents of deleterious propaganda. Unfortunately, even in the best of circumstances these codes are not supported by an effective system of enforcement. Even more, the excellent rules and precepts have little chance to survive in countries where organized systems of psychological warfare are bent on

⁶ VII POLITICAL 32 (A.14.1931.VII) (League of Nations Pub. No. 1931.VII.8).

⁷ U.N. GEN. ASS. OFF. REC. 2d Sess., Res. 14 (A/519) (1947).

⁸ U.N. GEN. ASS. OFF. REC. 9th Sess., Supp. No. 9, at 9 (A/2693) (1954).

⁹ WHITTON & LARSON chs. 15, 16.

¹⁰ *Id.* at 250, 257.

¹¹ 1 U.N. DEP'T OF SOCIAL AFFAIRS, FREEDOM OF INFORMATION 254 (U.N. Pub. Sales No. 1950.XIV.1); 2 *id.* at 208.

using the press for defamation, subversion, and warmongering, with no check on slanting, withholding, or falsifying the truth except the fear of refutation. In such conditions the journalist follows the government line, strictly enforced by prior censorship and with subsequent punishment in case of "error." In many states, since the citizen writer can be imprisoned and the foreign journalist expelled at will, the code of ethics is futile.

Nevertheless, the movement so hopefully initiated by the World Press Conference in 1893 should be continued. Many communicators are subject to prior censorship and various other strict controls, but a number are free. These bear a heavy responsibility. Upon them depends in large measure the hope for a healthier state of international communication.

II

CURBS ON PROPAGANDA THROUGH DIPLOMATIC PROCEDURES

One means of combating the evils of hostile communication is as old as diplomacy itself, and is still available. In certain cases, disputes over hostile propaganda can be solved by diplomatic procedures, especially now that the representatives of the nations are in almost daily contact through the United Nations. When a state is the victim of defamation from abroad, its government can resort to the traditional method of denying the accusation and filing a protest through diplomatic channels. Such action has been considerably facilitated these past few years by the clarification and extensive documentation of the international law of propaganda, notably by Lauterpacht, Martin, Preuss, Van Dyke, Quincy Wright, and others.¹² Consequently a diplomatic protest against warmongering, subversive, or defamatory propaganda can be supported by a large body of rules and precedents. Among friendly nations such a protest is often followed by a retraction and even an apology. Thus, in 1960, Prince Norodom Sihanouk, Premier of Cambodia, apologized to the American government for an erroneous editorial in the Premier's newspaper accusing the counselor of the American Embassy of aiding a movement to overthrow the Cambodian government. This apology followed a protest from Washington.¹³

Even as between nations that are not particularly friendly, diplomatic protest may be useful. Thus the American government issued an apology to Nazi Germany for a speech by Mayor La Guardia considered unfriendly to Hitler, although Washington denied all legal responsibility, pleading our traditional freedom of speech.¹⁴ If the accusation is outrageous and easily disproved, even an unfriendly government may be disposed to make amends. Such action can be good propaganda, as it may lend credibility to later charges which cannot be so easily refuted. Thus in 1962 the Soviet Army newspaper which had attacked General Heusinger, the German holder of a

¹² For bibliography on the international law of propaganda, see WHITTON & LARSON 55 n.1, 277-94.

¹³ N.Y. Times, Feb. 7, 1960, p. 22, col. 3.

¹⁴ N.Y. Times, March 4, 1937, p. 25, col. 4; *id.*, March 5, 1937, p. 1, col. 1; *id.*, March 6, 1937, p. 1, col. 5.

key position in NATO, published a correction when it was discovered that a 1932 photograph of a burning Chinese village had been used as evidence of atrocities alleged to have been committed by the general in the Second World War.¹⁵

Such examples of successful diplomatic action are encouraging to those who see in it an effective remedy for propaganda, and many more such cases could be cited. Some are found in the period of the French Revolution, others at intervals since then.¹⁶ But obviously this method is by no means always successful. Countless cases of hostile propaganda occur today, and many protests are made in vain. Some are ignored, others have been answered by a denial of legal responsibility. For example, in response to American protests against revolutionary propaganda, Moscow contended that the offensive messages came from a "private" source, namely the Comintern, and that consequently the Soviet government was not responsible.¹⁷

The success or failure of diplomacy in these situations turns largely on considerations of power. A protest lodged by a great power or one in a superior power position in relation to the sending state is likely to be heeded. Switzerland, for instance, has always shown extreme prudence in this matter; on a number of occasions it has silenced or expelled a refugee for sending subversive messages to his home country or even for publishing in Switzerland itself material offensive to another nation.¹⁸ The factor of power was illustrated frequently during the Nazi regime; weaker neighbors were very circumspect about filing protests against Hitler's propaganda. And when Austria, a victim of massive subversive broadcasts from Germany, did protest, she was promptly rebuffed, and the psychological warfare continued.¹⁹

The futility of protests from the West against Soviet propaganda was also due, in large measure, to the factor of power, but, so far as the United States is concerned, mere apathy had much to do with it. We underestimated the power of psychological warfare, which Lenin and Stalin had understood from the first. Our position was weakened because at the very time the Russians were spreading false news about us, our newspapers and magazines were publishing matter critical of Soviet Russia and frankly discussing our chances of success in a war against her. This made it possible for the Soviet delegate to the United Nations to accuse us of warmongering. To be sure, these articles were the product of a free press while the Russian press was completely controlled, so that the responsibility of the Soviet government was clear.²⁰ The fact is that the American government took many years to understand the

¹⁵ Red Star (Soviet Army newspaper), Jan. 9, 1962, quoted in The Bulletin (weekly survey issued by the Press and Information Offices of the West German government), Jan. 16, 1962.

¹⁶ WHITTON & LARSON 19, 139.

¹⁷ 28 AM. J. INT'L L. OFF. DOC. 3 (1934); Dep't of State Press Release No. 309, at 149 (Aug. 27, 1935) (response by Acting People's Commissar for Foreign Affairs); Hyde, *Concerning a Russian Pledge*, 29 AM. J. INT'L L. 656 (1935).

¹⁸ PREUSS, *La Répression des Crimes et Délits Contre la Sécurité des États Étrangers*, 40 REVUE GÉNÉRALE DE DROIT INTERNATIONAL PUBLIC 606, 622, 628 (1933).

¹⁹ See ZEMAN, *op. cit. supra* note 1, at 118; HARWOOD L. CHILDS & JOHN B. WHITTON, PROPAGANDA BY SHORT WAVE 15-18 (1942).

²⁰ See WHITTON & LARSON 164.

dangers of Soviet propaganda, and never did take it seriously enough. Soviet propaganda went on and on, in violation of the Litvinov accord with President Roosevelt, and the American government protested, receiving the same old disclaimers, until finally it even gave up protesting. It was only after the experiences of two world wars that Washington established a governmental agency designed to meet the Russian challenge with an information program of its own.²¹

III

PUBLIC DIPLOMACY

What may be called public diplomacy can also prove useful as a check on hostile international propaganda. By this is meant the airing of charges through the forums of the General Assembly, Security Council, and other public meetings where representatives of the nations defend before world opinion their particular points of view. Such meetings offer the delegates an unprecedented opportunity for the making of accusations, whether true or false, but at the same time an unexcelled public forum to *answer* such charges. On many occasions a U.N. delegate has risen to take advantage of this "right of reply" and state his government's position. At times this has proved effective, and might be an admirable check on reckless verbal attacks if only the right people could hear the response or reply. When the Soviet delegate to the General Assembly charges the United States with warmongering, this being repeated in *Pravda*, the response can be given publicly by a Stevenson or a Goldberg and printed in the *New York Times*; but the people of Soviet Russia and her satellites will never hear of it unless by means of the Voice of America or Radio Free Europe. The American reply may never reach the new African states or Asia either. These facts point up the desirability of a worldwide U.N. broadcasting station, a project that has been suggested by some authorities.²²

The foregoing throws some light on the dialogue between those who favor drastic laws against international propaganda and those who maintain that the best antidote thereto is the assurance of more and better means of communication under a regime of freedom of information. This view is effectively stated in the paradox "The best answer to propaganda is more propaganda," but it is perhaps correct to say that the best answer to propaganda is the truth. Of course, the greatest obstacle to the healing properties of truth today is the presence of formidable barriers to freedom of communication not only between the nations but also on the domestic front, especially in the so-called "closed" regimes. In present world conditions the contention of Milton and Mill, that in a free public contest of opinion the truth will prevail, cannot be substantiated. The case for a free press was effectively summed up by Mr. McNeil, speaking for the United Kingdom in 1947: "Nobody could say that the British

²¹ See *id.* at 44-52; PROPAGANDA AND THE COLD WAR (Whitton ed. 1963).

²² WALTER H. C. LAVES & CHARLES A. THOMSON, UNESCO: PURPOSES, PROGRESS, PROSPECTS 115-21 (1957); UNESCO Doc. 5C/Proceedings 342.

Press was perfect, but at least if a newspaper published incorrect news there would be another paper to put it right, whereas if *Pravda* were mistaken there would be no other paper to correct the error."²³

Before leaving the subject of diplomacy, we should note that mediation by a third party offers another promising means of attenuating the dangers of hostile international communication. At times the most successful third-party mediation may take the form of action by an international organization. Such diplomatic interposition dealt successfully with a dispute between Haiti and the Dominican Republic.²⁴ This dispute occurred in 1949 and involved a typical case of subversive radio propaganda sent from one country to another. A former colonel from Haiti, taking refuge on the neighboring soil of the Dominican Republic, proceeded to deliver a series of radio appeals directed to his former country, Haiti, calling on the people to revolt and overthrow the government. These broadcasts were characterized by the Haitian ambassador to the Organization of American States as "extremely vulgar and provocative, and as constituting a type of moral aggression." Fortunately the Council of the OAS was able to interpose between the two interested governments, calling on them to avoid any "systematic and hostile propaganda against each other, or against other American countries." The two countries settled the matter amicably, agreeing not to "tolerate in their respective territories the activities of any individuals, groups, or parties, national or foreign, that have as their object the disturbance of the domestic peace of either of the two neighboring Republics."²⁵ The terms are quoted here as a possible model for handling similar disputes.

IV

INTERNATIONAL LEGISLATION

Ever since states first became aware of the dangers of verbal attacks they have sought to curb them through the treaty method. From the eighteenth century to the present, there have been many such treaties, and both in their number and in their severe condemnation of hostile communications they are impressive. These agreements are in general of two sorts: first, promises by states to refrain from certain types of hostile messages and, second, promises by states to control propaganda by individuals within their jurisdiction by taking preventive or punitive action, or both—for example, by restraining resident refugees from sending subversive material to their homeland. The latter type—concerned with domestic laws—has encountered the greatest opposition by governments.

As for bilateral treaties, some date from the French Revolution, others are scat-

²³ U.N. GEN. ASS. OFF. REC., 1st Comm. 230 (A/C.I/SR 85) (1947).

²⁴ 1 ANNALS OF THE ORGANIZATION OF AMERICAN STATES 217-19, 325-26 (1949); 3 *id.* 22-23 (1951).

²⁵ Apropos of this incident, one may well wonder what had happened to the Dominican Republic "Act No. 2279, Relating to Exiles or Political Refugees," dated Feb. 22, 1950, expressly enjoining upon aliens and refugees "(a) To take no hostile action against the lawful institutions, or those which the Republic recognizes, of the State of which he is a national, or of other States, and to take no part in any activity of this nature." Quoted in L. JOHN MARTIN, INTERNATIONAL PROPAGANDA 130 (1958).

tered throughout the nineteenth century, and many followed the First World War. There have also been a few since the Second World War, the recent Tashkent truce agreement between India and Pakistan being among the most significant. In that accord the parties agreed "that both sides will discourage any propaganda directed against the other country and will encourage propaganda which promotes the development of friendly relations between the two countries." They also agreed that their relations "shall be based on the principle of non-interference in the internal affairs of each other."²⁶ We might also mention the remarkable provision in the 1946 Treaty of Friendship and Neighbourly Relations Between Iraq and Turkey,²⁷ wherein the parties promised "to exchange any information in their possession with regard to harmful and subversive propaganda contrary to the laws of the two countries and likely to compromise the other Party's security and to arouse a spirit of rebellion."²⁸

It is believed that such *bilateral* accords have been beneficial, since they record the official intent of two nations to desist from harmful and highly provocative verbal attacks, thus ending a particularly irritating cause of resentment and hatred. The agreement may, of course, be only one item in a general accord to end a controversy or conflict and so may last only as long as the *détente*. But it can be of tremendous benefit when, as in the case of the aforementioned incident between Haiti and the Dominican Republic, the propaganda is itself one cause of the dispute.

Multilateral accords for the suppression of propaganda are an innovation of the twentieth century. One or two excerpts from such treaties should be of interest. The 1936 International Convention Concerning the Use of Broadcasting in the Cause of Peace, still in force between a dozen states and revived recently by the United Nations, is particularly significant.²⁹ Under this treaty the parties agreed (1) not to incite the population to acts incompatible with the internal order or the security of a signatory (subversive propaganda); (2) to ensure that the transmissions from their respective territories shall not constitute an incitement to war or acts likely to lead to war (war propaganda); (3) to prohibit, or stop, transmissions containing incorrect statements "likely to harm good international understanding"³⁰ (false news); (4) to rectify statements which are found to have been incorrect (rectification); and (5) in time of crisis especially, to see that no information on international relations is broadcasted unless its accuracy has been properly verified.

The Organization of American States has fostered agreements against hostile international communications that are remarkable both in their number and the comprehensive nature of their commitments. Especially noteworthy is the 1935 South American Regional Agreement on Radiocommunications whereby the parties pledged to control the sources and accuracy of information broadcasted, avoid de-

²⁶ N.Y. Times, Jan. 11, 1966, p. 15, col. 5.

²⁷ 37 U.N.T.S. 281 (1949).

²⁸ *Id.* at 295.

²⁹ 186 L.N.T.S. 309 (1938).

³⁰ *Ibid.*

famatory emissions, and abstain from participation in the political and social movements taking place in other adhering states.³¹

Also, many of the same parties again agreed in 1937³² and 1940³³ to ensure the accuracy of news and to check its origin. They also promised "to insure that the dissemination of news or of commentaries which might disturb the good relations existing between States, offend national sentiment of other countries or injure the work of the organization and consolidation of peace, as well as all which might offend the officially designated authorities of States, shall be avoided." They agreed also to abstain from broadcasting ideas that might threaten the sovereignty and integrity of states.³⁴ It should be added that under the Treaty of Rio and the Charter of the OAS, subversive propaganda could be interpreted as intervention and also as an aggressive act.³⁵

These provisions, it must be evident, are rhetorically excellent. Hence many advocate a new drive against hostile international communication by calling for more "international legislation," using a term employed by the late Professor Manley O. Hudson. But leading students of the problem have little enthusiasm for such a campaign. Why should this be so?

(1) The first reason for this bearish attitude is the familiar factor of nonacceptability. Even a modest convention to outlaw dangerous propaganda is not likely to gain the adherence of the great totalitarian powers. The latter did not sign the 1936 radio convention just mentioned. They have not accepted the right of reply. Nor have the free democracies—the United States, Britain, Canada, or Switzerland. Those in the former group avoid limitations on what they consider a vital arm of power politics, while the latter have consistently eschewed such conventions (although aiding in their preparation and discussion) on the grounds, first, that they did not possess the right to control private media and, second, that even if they did have such a right they could not exercise it without grave danger to ancient traditions of freedom of expression. It should be noted, however, that such arguments are not pertinent when the convention in question purports to bind *governments*, not individuals, to refrain from harmful propaganda. And in our present-day world, most of the harmful propaganda originates with official propaganda agencies, that is, with governments. Some also argue, as we have seen, that the best antidote for hostile propaganda is to be found in more sources of information and greater freedom of speech and press.³⁶

(2) Then there is the disturbing record of nonperformance, the frustrations the world has experienced with regard to such treaties in the past. Mussolini solemnly

³¹ 7 MANLEY O. HUDSON, *INTERNATIONAL LEGISLATION* 47 (No. 407) (1941).

³² *Id.* at 767 (No. 486).

³³ 8 *id.* 447 (No. 576) (1949).

³⁴ 7 *id.* at 767.

³⁵ WHITTON & LARSON 101-02, 127-30.

³⁶ See WHITTON & LARSON 246-48.

promised to refrain from propaganda against Britain; Hitler was going to stop slandering Austria; Moscow in the Roosevelt-Litvinov accord agreed to desist from further intrigue of a subversive nature against the United States. But this was all in vain. We have already mentioned the accord between India and Pakistan, which was bound to fail without some solution of the underlying political dispute.

(3) Another grave problem is the difficulty of enforcement. Definitions are vague, and evasions can often be made with impunity. Serious and at all times insoluble problems of interpretation are bound to arise. If warmongering is outlawed, would this cover agitation in favor of a war of self-defense? But most wars are represented by the parties as wars in self-defense. And actually would it be possible to draft a satisfactory definition of "propaganda for war?" Few cases could be as unequivocal as William Randolph Hearst's famous alleged telegram to Frederic Remington in Cuba on the eve of the war with Spain: "You furnish the pictures [of alleged Spanish atrocities] and I'll furnish the war!"³⁷ Also, if a newspaper described the intolerable social conditions claimed to exist in a certain country, this might be deemed subversive propaganda if the motive was to engender an uprising. But the motive could be very difficult to establish. Perhaps in some situations the motive could be assumed. But suppose that the writer is merely telling the truth?

The foregoing are some of the reasons why scholars who have devoted years to these problems remain skeptical as to the feasibility of another movement for a multilateral convention to curb international propaganda, especially one that merely sets forth naked promises without providing means for interpretation or enforcement. In his remarkable report to the United Nations in 1953 as Rapporteur on Freedom of Information, Mr. Salvador P. Lopez concluded, "It is not feasible, for the present at least, to seek the outright prohibition and suppression of hostile propaganda and of false or distorted information by means of international legislation."³⁸ He added, "It would be unrealistic at the present time to attempt to draw up a convention which would bind individual States to introduce legislation aimed at the suppression of objectionable reports."³⁹ But a multilateral treaty which creates a concrete remedy through agreed administrative procedures tied into an existing international organization has real possibilities. Herein lies the particular virtue of the United Nations, since it provides a ready-made administrative structure whose operation could translate agreements into tangible results. A discussion of this possible line of action follows.

³⁷ JOHN K. WINKLER, WILLIAM RANDOLPH HEARST, A NEW APPRAISAL 95 (1955); see MARCUS M. WILKERSON, PUBLIC OPINION AND THE SPANISH-AMERICAN WAR: A STUDY IN WAR PROPAGANDA 43 (Louisiana State University Studies No. 8, 1932).

³⁸ Lopez, *Freedom of Information, 1953*, U.N. ECOSOC. COUNCIL OFF. REC. 16th Sess., Supp. No. 12, at 18 (E/2426) (1953).

³⁹ *Id.* at 19. Professor Friedmann writes, apropos of the 1936 convention on radio propaganda, "It is more likely to be the product of a lessening of tension and ideological warfare than a way to produce such concord." He believes that the treaty could be revived at any time "when the principal antagonists in the cold war are sufficiently agreed on the principles of coexistence and the necessity to reduce political tension to wish to refrain from attempts to subvert the political order of the antagonist." WOLFGANG G. FRIEDMANN, THE CHANGING STRUCTURE OF INTERNATIONAL LAW 272-73 (1964).

V

INTERNATIONAL ADMINISTRATIVE ACTION

A. Monitoring

There is a means of blunting the instrument of hostile international communication that might operate successfully through the machinery of the United Nations. This is a system for monitoring of broadcasts. In a notable address to the General Assembly in 1958, President Eisenhower, with his eye on the disturbed conditions in the Near East, the theater of vituperative charge and countercharge across frontiers, made the following proposal:

I believe that this Assembly should reaffirm its enunciated policy and should consider means for monitoring the radio broadcasts directed across national frontiers in the troubled Near East area. It should then examine complaints from these nations which consider their national security jeopardized by external propaganda.⁴⁰

Here was something more concrete than the usual vague Soviet proposals for the condemnation of propaganda for war. But Mr. Gromyko was not interested in the President's suggestion; he merely repeated the usual Russian complaints against the emissions of the Voice of America plus a demand for the outlawing of warmongering. Other delegates, notably the representatives of the United Kingdom, Turkey, and Jordan, voiced their praise of the plan, but there the matter has rested.⁴¹ The very nations whose radio emissions are the most culpable were the most reticent when confronted with a practical proposal for reform.

But if only the nations were willing to implement the monitoring of broadcasts, now a familiar adjunct of the intelligence services of most nations, it could constitute, if tied in with the U.N. system, a highly valuable means of dealing with abuses. When charges and countercharges of the misuse of radio are made, especially defamation, subversion, or warmongering, the broadcasts could be monitored and transcribed by an agency of the United Nations, possibly located at Geneva. The participants could be asked to explain the source and nature of an offensive communication. This would permit the text to be given worldwide publicity, thus facilitating the rectification or the withdrawal of the offensive message. Today a nation accused of improper charges against another can quibble about the authenticity of the offending communication, deny that it was ever made, blame it on some unofficial source, question the translation, or perhaps merely ignore the protest even if carefully documented. But under a system of monitoring, the facts—the actual broad-

⁴⁰ U.N. GEN. ASS. OFF. REC. 3d Emergency Special Sess., Plenary 8 (A/PV. 733) (1958). See Whitton, *Radio Propaganda, A Modest Proposal*, 52 AM. J. INT'L L. 739 (1958). Among several suggestions by Chester Bowles for positive commitments to aid African development was "(1) A pledge by all nations to refrain from agitating propaganda within Africa and to end all efforts at direct or indirect subversion. The United Nations could be authorized to investigate all charges of violation and to report to the General Assembly." Bowles, *Great Challenge to the U.N.—Africa*, N.Y. Times, Aug. 21, 1960, § 6 (Magazine), p. 15, 108.

⁴¹ WHITTON & LARSON 184-86.

cast—could be brought out into the open, an indispensable first step toward curbing the reckless propagandist. If, as proposed to UNESCO by the United States,⁴² the United Nations had established a radio station with worldwide coverage, perhaps the biblical promise would be nearer to realization: "Ye shall know the truth, and the truth shall make you free."⁴³

B. Right of Reply

Within the state the reputable journal that discovers, after receiving a protest and even without it, that an error has appeared in its columns will often publish a correction. Between friendly nations, too, there is always the opportunity for rectification, but there is no formal method for the adjudication of cases of defamation. There is no international libel action. But international lawyers have borrowed from domestic legal systems by proposing the institution of an international right of reply. In fact, a convention providing for such a remedy was actually signed in 1948 and is in force today for the states that have ratified it.⁴⁴

Where this remedial procedure exists it is based on fundamental considerations of justice and common sense. It provides the most practical method of dealing with libel and slander by granting a regular procedure for the establishment of the truth in an effort to rectify, as quickly and as completely as possible, the harm done by the defamatory item. The person attacked puts into operation a new source of information, his own version of the truth. The aggrieved party thus obtains prompt substantial relief with less cost than is possible through the traditional civil suit. As is well known, the legal requirements for the proof of libel are extremely technical. Severe moral and material damage may therefore result from subtle insinuations which are outside the technical definitions of libel or slander. In addition, many communications are privileged. Cases take months or years to complete, and even a successful plaintiff may have to be content with a symbolic judgment of a few dollars, and since the plaintiff is not required to prove material or moral prejudice, the utility of the right of reply is evident.⁴⁵

The first efforts to create an international right of reply date from the 1920s when the dangers of hostile radio emissions first became apparent. One of the earliest of such proposals was made in 1929 at the International Juridical Congress on Radio, the delegates voting for the extension to radio of the right of reply then in use in many countries for the press.⁴⁶ In 1931 the International Federation of League of Nations Societies recommended the establishment of a right of reply available to any state objecting to a press report or radio emission which was either "inexact or calculated

⁴² LAVES & THOMSON, *op. cit. supra* note 22, at 43, 115-21; WHITTON & LARSON 222, 265.

⁴³ *John* 8:32 (King James).

⁴⁴ Res. 630(VII), 1952 U.N. YEARBOOK 463-65 (U.N. Pub. Sales No. 1953.I.30). See *infra* notes 50-51 and accompanying text.

⁴⁵ WHITTON & LARSON 187.

⁴⁶ COMPTE RENDU, 4^e CONGRÈS 115-40 (1929).

to disturb international relations."⁴⁷ Other similar proposals could be cited—for instance, the right of reply proposed by the International Federation of Journalists at a meeting held in Brussels in 1934.⁴⁸ Curiously enough, at the important 1936 conference on radio communications, the right of reply was not considered applicable to radio, however appropriate for the press. The Convention did, however, obligate the parties to rectify inaccurate radio emissions harmful to good international understanding.⁴⁹

It was not until the end of the Second World War that the experts came to believe that the right of reply should be instituted for communication by both radio and the press. A draft convention demanding the right to reply was approved at the U.N. Conference on Freedom of Information held in Geneva in 1948. This convention, the so-called "French Convention," was accepted after some changes by the General Assembly and opened for signature in December 1952.⁵⁰ As of February 12, 1965, this Convention on the International Right of Correction had been ratified by Cuba, El Salvador, France, Guatemala, Sierra Leone, Yugoslavia, and the United Arab Republic—seven in all.⁵¹ Since only six ratifications were required to bring the convention into effect, it is now binding on these powers.

The right of correction operates as follows: One state—let us call it State A—contends (1) that a news dispatch published in State B is damaging to State A's relations with other states or to its national prestige or dignity; (2) that it was transmitted from one country to another by correspondents or information agencies; (3) that it was published or disseminated abroad; and (4) that it was false or distorted. If these four conditions are satisfied, the so-called "Communiqué," the version of the facts as stated by the aggrieved party, comes into play. The Communiqué may only refer to the original dispatch and must be no longer than necessary. It goes to State B (where the offensive publication originated), with a copy to the news agency responsible in order to enable the latter to publish a correction. State B then must release the Communiqué within five days to correspondents and information agencies operating on its territory. If, however, State B fails to publicize the document, it may be sent to the Secretary General of the United Nations, in which event State B has five days to add its comments. Then, within ten days thereafter, the Secretary General must give appropriate publicity to both the Communiqué and the original dispatch and comments.

⁴⁷ IX DISARMAMENT 4 (C.602.240.1931.ix) (League of Nations Pub. No. 1931.IX.19).

⁴⁸ BULLETIN OF INFORMATION ON THE WORK OF INTERNATIONAL ORGANIZATIONS 50-51 (League of Nations Pub. No. 1935.XII.B.7).

⁴⁹ 186 L.N.T.S. 309 (1938). In the United States the FCC "fairness doctrine" requires that individuals be granted an opportunity to answer their critics and present their view of controversial issues. See generally Office of Communication of United Church of Christ v. FCC, 359 F.2d 994 (D.C. Cir. 1966).

⁵⁰ WHITTON & LARSON 191.

⁵¹ Letter From V. Romanov, Chief, Section II, Division of Human Rights, United Nations, to John B. Whitton, Feb. 12, 1965.

The potential advantages of such a right of correction are many. The remedy is found not in an attempt to punish the offender or compensate the aggrieved party but in the nature of the assistance rendered the latter. The general interest—concern for peaceful international relations and the establishment of the facts—is brought into harmony with the individual right of freedom of expression. Given general application, the right of correction could enable the offended nation to answer officially-inspired campaigns directed against it or its leaders. Even a dictatorship could respond if it considered itself unjustly attacked by the free press in a democracy, an important consideration, since the governments of the “free” states, hindered as they are by constitutional guarantees of freedom of the press, could do little but express regrets for excesses in the press.⁵²

The beneficial effect of the right of reply may actually extend beyond the mere correction of a particular item. Its availability alone may have a salutary long-range effect. Any government or newspaper knowing that its utterances are subject to such official control would be more circumspect about their accuracy and propriety. Unfortunately, thirteen years after the French Convention was opened for ratification only seven states have ratified it, including only one great power, France, the original sponsor. Nevertheless, the right of correction has such great possibilities that the struggle for further ratifications must be continued. Both “closed” and “free” states have much to gain from its successful operation.

VI

DOMESTIC LAWS AS REMEDIES

A. Analogies in Domestic Law

In his pioneering work, *International Propaganda*, L. John Martin presented in 1958 an invaluable review of domestic laws concerning oral and written communications contrary to the public interest and thus subject to legal controls of a civil or criminal variety.⁵³ Some of these laws deal directly with domestic propaganda, and a few also are closely concerned with problems of international propaganda. Many provide valuable analogies for use in the international field. The universality of certain of these laws may be proof of the existence of general principles of law for application to states in their mutual relations. This vast gamut of constitutional provisions, legislation, and decrees—so far as it concerns problems of propaganda—may be divided into the four general categories discussed below.

⁵² WHITTON & LARSON ch. 10; Whitton, *An International Right of Reply*, 44 AM. J. INT'L L. 141 (1950).

⁵³ Martin points out that these laws seek to control “(9) the media themselves, (10) the contents, and (11) the reception of the communications or propaganda. Finally, (12) they also attempt to control the disseminator or the potential disseminator.” MARTIN, *op. cit. supra* note 25, at 121. Other compilations of such domestic legislation are found in I-2 U.N. DEP'T OF SOCIAL AFFAIRS, *op. cit. supra* note 11, and FERNAND TERROU & LUCIEN SOLAL, *LEGISLATION FOR PRESS, FILM, AND RADIO* (UNESCO Pub. No. 607, 1951).

1. *Laws Directly Protecting Individuals*

In this category we may list those laws which have as their immediate purpose the protection of individuals from damage through defamation. Here we have the laws of libel and slander, and those (in some states) providing for rectification or right of reply or both. The range of some of these laws is broad enough to cover foreign sovereigns and other high officials and thus are discussed further under category four below.

2. *Laws for the Protection of Society*

Certain communications are proscribed because of the potential dangers they represent to society, in that they may lead to violence or unrest. They include the following:

(1) Incitement to riot.

(2) Incitement to breaches of the peace. Thus, a 1936 British law punishes anyone who, in a public place or public meeting, uses words with intent to cause a breach of the peace or which actually do cause such a breach.⁵⁴ Justice Holmes's illustration of the man who cries "Fire!" in a crowded theatre⁵⁵ comes within this category.

(3) Incitement to acts against a religious, ethnic, or other specific group. Such "group libel" laws are designed to protect persons having special need of such aid, but a main objective is to forestall civil violence.

(4) Incitement to commit a crime.

In some countries the advocacy of certain political doctrines is prohibited on the ground that unrest and violence might result from the espousal and propagation of such views. In closed states opinions, doctrines, and facts considered dangerous to the public interest are kept from the public by intensive methods, including censorship, control of the mails, jamming of foreign broadcasts, and various strong police measures.

3. *Laws to Protect the State and Public Officials*

A large number of laws outlaw communications considered to threaten harm to the state or to governmental institutions. Some only protect the state itself from verbal attacks. All countries attempt to safeguard the head of the regime from terroristic attacks, oral or written. The severity of these laws depends on the character of the regime, and thus they vary greatly. The freedom of the English soapbox orator in Hyde Park to castigate his sovereign is traditional, but even in that country some such verbal attacks may be punishable. Lord Haw-Haw was convicted for

⁵⁴ Public Order Act of 1936, § 5, quoted in MARTIN, *op. cit. supra* note 25, at 131.

⁵⁵ Schenck v. United States, 249 U.S. 47 (1919).

treason in the Second World War although his radio broadcasts, the cause of his conviction, were delivered from a foreign country.⁵⁶

In some countries laws protect not only the chief of state but other high officials as well and outlaw insults to the national flag or other similar symbols. In most countries the security of the state is likewise safeguarded through laws against communications likely to cause, or which actually do cause, domestic subversion or rebellion—for example, antisedition laws and anti-communist statutes. States with long-established traditions of freedom of expression may be lenient in this regard, while weak states, especially newly-established regimes or those with a history of *coups d'état*, typically have laws of extreme severity.

4. *Laws Directly Involving Foreign Relations*

Many states extend the range of protection of their own regime so as to include foreign sovereigns and other high officials. Thus they punish individuals within their jurisdiction who commit libel or slander against the high officials of other countries. Resident diplomats are protected from defamation practically everywhere. Terrorism is punished in a number of countries even if the object of the attack is in a foreign country. Such laws are not an expression of altruism but reflect the desire of states to save themselves from embarrassment. Also, an assassination anywhere, like piracy, is resented and feared generally, or should be, and the terrorist, even if his sights are trained on some far-distant victim, is not a very desirable fellow to have around.

There is some domestic legislation that belongs directly in the antipropaganda category. A number of states rule out those communications that might tend to cause international complications, while others specify "propaganda for war" or "propaganda for aggression," declaring it contrary to law. Under the Constitution of the Democratic Republic of Germany war propaganda is outlawed,⁵⁷ and Brazil's constitution specifically states that propaganda for war shall not be tolerated.⁵⁸ In fact, in a "fairly large group of nations," according to Martin, no one is permitted to urge the state to go to war against a foreign state.⁵⁹ Most democracies are opposed to such laws, claiming it merely gives certain regimes an additional ground for the suppression of freedom of speech.

As for subversive propaganda, a small but significant minority of states outlaw propaganda directed against the territorial integrity of foreign states. In extreme cases both the United States and Britain have the necessary legislation for the prosecution of individuals guilty of such actions,⁶⁰ but their actual policies in this matter have not

⁵⁶ *Joyce v. Director of Public Prosecutions*, [1946] A.C. 347.

⁵⁷ DEMOCRATIC REPUBLIC OF GERMANY CONST. art. 6.

⁵⁸ BRAZIL CONST. art. 141, § 5.

⁵⁹ MARTIN, *op. cit. supra* note 25, at 134, 237 n.49.

⁶⁰ WHITTON & LARSON, 139-41 (in case of overt act or incitement to murder).

been consistent. They hesitate to act against agitators preparing subversive movements abroad unless there is clear proof of an overt act.⁶¹

Another type of domestic law punishes those responsible for the publication of news that is false, if the falsity is known or should have been known to the person involved and if the result is to cause international misunderstanding or endanger the peace. Several states have decreed that the dissemination of false news endangering international peace is a crime.⁶²

B. Extension of Domestic Laws to Propaganda

The social evils against which the above-described laws are directed are primarily of a domestic nature and only indirectly affect the rights and duties of states. But all have some bearing on the problems with which this symposium has to deal. Some are of particular importance as possible remedies for hostile propaganda, and I will conclude this section by singling out those laws which have proved so beneficial that their more extensive enactment and more intensive use can be recommended. This strengthening of domestic legislation in ways calculated to attenuate the evils of hostile propaganda may come about either in fulfillment of treaty obligations or as voluntary unilateral action by one or more states. Such reforms, of course, involve the problem so important to the United States and other free countries as to how far such laws may go without doing violence to traditional liberties of expression, often protected by the most sacred constitutional provisions. It is not within the limits of this article to deal with this weighty question, but it may be well to recall that all free countries have found it possible to impose limitations on freedom of expression when the evil dealt with was sufficiently grave. As Blackstone said, "so true it will be found, that to censure the licentiousness, is to maintain the liberty of the press."⁶³ The following paragraphs touch on these problems in suggesting possible changes in domestic laws that might alleviate the impact of propaganda.

(1) Laws aimed at suppressing subversive propaganda by individuals are recommended, provided that such activity is clearly connected with a movement for

⁶¹ For example, the United States disclosed its position clearly when Mexican revolutionaries were promoting rebellion from the American side of the frontier:

"The Department of State has the honor again to suggest to the Mexican ambassador for his consideration the fact that under the Constitution of the United States free speech is absolutely assured, and that therefore in order to bring inflammatory speeches or propaganda within the statutes of the United States it will be necessary that some definite act or acts of which the mind can take cognizance be proved in addition to the mere word, written or spoken, which, even though indicative of the strongest desire and the most determined purpose to do the forbidden act, will not constitute the offense."

The Secretary of State to the Mexican Ambassador, [1911] 1 FOREIGN REL. U.S. 393 (1918).

Under this doctrine, theoretically any clearly inflammatory propaganda in support of the Bay of Pigs invasion would have been actionable, but since the movement was conceived to be in the national interest and was aided by the CIA and other federal agencies, only the extreme optimist would expect to see any prosecution of the agitators in such circumstances.

⁶² WHITTON & LARSON 176; TERROU & SOLAL, *op. cit. supra* note 53, at 289-90.

⁶³ 4 BLACKSTONE, COMMENTARIES 152 (16th ed. 1825).

rebellion against a foreign government and is of such a nature as to be considered an overt act of incitement. I believe that proof of ulterior motive should be required, although it may be difficult to establish. Mere moral support extended to the proponents of such a subversive movement should not be actionable. Such laws should be especially severe with regard to subversive activities of resident refugees. Issues of freedom of speech seem properly subordinated in these circumstances to foreign relations considerations of the greatest importance.

(2) The deliberate falsification of news pertaining to a foreign country, especially slanderous accusations or revelations attacking its leaders, can be so inflammatory as to constitute one of the gravest perils to world peace. Bismarck's alteration of the Ems telegram, which precipitated the Franco-Prussian War, is the classic example.⁶⁴ In flagrant cases, when it can be clearly established that one of the media, or an individual communicator, has disseminated false news with the distinct purpose of causing subversion, whether at home or abroad, or of inciting one state to war against another, the offender should be subject to civil or criminal action or both. I make this recommendation despite the probability that the burden of proof, with respect to both motive and the falsity of the matter communicated, may be extremely heavy. But I am of the opinion that the only tolerable method of controlling false news is through the courts and that administrative machinery for this purpose would be dangerous. I agree with the United Kingdom's response to a U.N. questionnaire on this subject: "Great abuses are likely to arise from any attempt by administrative action to prevent the publication of 'false,' 'distorted' or 'tendentious' news, more especially if arbitrary power is conferred on executive authorities to determine what constitutes falsehood, distortion, and tendentiousness."⁶⁵

(3) Libel and slander laws, or their equivalent, might readily be drafted to protect foreign diplomats and heads of state from personal vilification. Mere criticism could not be controlled in free societies, and it is notable that there has been practically no enforcement activity under state legislation of this variety in the United States.⁶⁶ Leaving aside the interesting constitutional question of the validity of such legislation in the United States after *New York Times Co. v. Sullivan*⁶⁷ and *Garrison v. Louisiana*,⁶⁸ we might wonder whether such laws, in the United States or any other country, would in fact be enforced whenever those conditions arose that would make their enforcement most desirable. Certainly public prosecutors would be unlikely to prosecute, and U.S. juries would be slow to convict or award damages against, a local publisher for statements concerning a regime widely regarded as the enemy. Only if enforcement were a matter of treaty obligation in a state that takes such obligations seriously (perhaps because of sanctions available to enforce them) would legis-

⁶⁴ 2 OTTO VON BISMARCK, *THE MAN AND THE STATESMAN* ch. 22 (Butler trans. 1898).

⁶⁵ 1 FREEDOM OF INFORMATION, *op. cit. supra* note 11, at 217.

⁶⁶ See generally 1 CHAFEE, *op. cit. supra* note 4, at 77-130.

⁶⁷ 376 U.S. 255 (1964).

⁶⁸ 379 U.S. 64 (1964).

lation of this kind be desirable. On balance, I would recommend such legislation only in special circumstances where there was some assurance that it would be given effect to accomplish the purpose of reducing war fever or other threats to peace.

(4) The proposal for the passage of laws to suppress "war propaganda" also involves problems of the first order. The drafting of any such statute, as pointed out elsewhere in this symposium, would be faced with the extremely delicate matter of definition. It would be opposed in many countries as an interference with freedom of speech and the press, perhaps an unsurmountable hurdle in the United States.⁶⁹ As a matter of fact, there are few unequivocal cases of such provocation by individuals or even individual publishers. Instead, effective war propaganda tends to originate with official or semiofficial government agencies. Also, it is ominous that most of the laws of this variety already in existence are found in totalitarian regimes, and it is significant that the foremost proponent in the United Nations of the outlawry of warmongering has been Soviet Russia. At all events, the entire matter is of such extreme difficulty that much further study must be made before any definite recommendation for new legislation in this field can properly be made.⁷⁰

CONCLUSION

If one examines the history of hostile propaganda among the nations, it becomes clear that any serious outbreak is usually a symptom of an abnormal international situation. Where there is international propaganda, we may be sure to find its forerunner is some more basic trouble, some tension or conflict of which psychological warfare may be a contributing cause but is more often a consequence. For this reason, the ideal way to deal with a specific case of inflammatory communication across frontiers would be to seek out and alleviate the cause of the underlying tension. But this is seldom possible and is particularly quixotic in a world of ideological conflict. Thus, our goal must be the more limited one of preventing specific international disputes from worsening and thus increasing the risks of war. To this end we must provide institutions and conditions that will prevent specific disputes from arising and allow those that do arise to be settled or at least confined within narrow limits. Propaganda can generate tensions by promoting subversion and arousing deep-seated

⁶⁹ See Newhouse, *The Constitution and International Agreements or Unilateral Action Curbing "Peace-Imperiling" Propaganda*, pp. 506-26 *supra*; Van Alstyne, *The First Amendment and the Suppression of Warmongering Propaganda in the United States: Comments and Footnotes*, pp. 530-52 *supra*.

⁷⁰ But see WHITTON & LARSON 240, for view favoring legislation to punish incitements that "go beyond mere casual expressions of opinion and . . . take the form of concrete and organized activity to bring about an illegal aggressive war and to aid in specific actions and steps toward this end." See also the U.N. Draft International Covenant on Human Rights, the work of the Third Committee of the General Assembly, which reads in part as follows:

"1. Any propaganda for war shall be prohibited by law. 2. Any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law."

58 AM. J. INT'L L. 857, 871 (1964).

feelings.⁷¹ It also threatens escalation of conflicts, and, because it is primarily irrational in its appeal, it tends to widen the basis for international hatred and ideological confrontation and thus to infuse issues with emotional content and remove them from the hands of diplomats. International efforts must continue toward finding methods of inhibiting propaganda's function as a means of creating and exacerbating conflicts among nations.

⁷¹ It should never be forgotten that subversive propaganda particularly only succeeds when it falls on fertile soil. We agree with Barghoorn who writes: "The most important tool of the free world in the struggle against communist propaganda, however, is not propaganda or counter-propaganda at all, but a *series of programs designed to mitigate or eliminate the conditions which foster susceptibility to Soviet propaganda.*" FREDERICK C. BARGHOORN, *SOVIET FOREIGN PROPAGANDA* 319 (1964). (Emphasis added.)