

verbal. The question is one of jurisprudence as well as of politics. It is not the *quantum* of powers exercised by a governmental entity which determines its juristic character, but its competence to define the limits of its own authority. If Mr. Finletter's "limited world government" is competent to set the limits of its own authority and is, as he says, "superior to the national states," it is more than a world "government"—it is a world state even though it delegates to its central world government only the powers "necessary to stop war" and leaves other powers elsewhere. The juridical alternative to a "world state" is not a "world government" but an "international government," whose authority is conferred and delimited by treaty. This alternative is rejected with scorn by Mr. Finletter, who suggests that if Russia declines our offer of "a limited world government . . . we should form the supra-national government with those nations who are willing to join it." This is only another way of urging Two Worlds instead of One—a fatality to which we are so close that it should not be encouraged.

In politics there are no automatic or permanent solutions. The grave problems which divide Soviet Russia from the nations of the western world cannot be solved by changing the words in a written document. The United Nations' Charter already provides adequate procedures. With unconquerable persistence we can develop the scarcely tapped resources of the Charter and extend its metes and bounds. The present alternative to the United Nations is not world government but chaos.

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THE PROBLEM OF MORAL DISARMAMENT

A decade ago it was a common criticism of the Covenant of the League of Nations that it had made provision for military disarmament but no provision for economic disarmament. Hostile critics of the League pointed to the collective security provisions of the League as insuring the maintenance of the *status quo*, found that the world was divided into the "haves" and the "have-nots," and pronounced the doom of the League unless its members were prepared to make the League an instrument of justice as well as a means of preventing aggression. Friendly critics, while not denying the disturbing factor of the unequal distribution of resources among the leading nations, insisted that the proper solution was not to attempt to establish new political frontiers but to lower the economic barriers between states, to remove the obstacles to the free flow of trade, to open up the channels of commerce, to promote economic disarmament side by side with political disarmament. Only a few critics saw clearly the importance of a third factor, that of moral disarmament; and none were able, under the circumstances, to formulate it in terms of a rule of law.

It remained for the development of the Nazi Government in Germany to bring home to the international community the danger latent in the com-

bination of national fanaticism and the newest instruments of aerial warfare. Nationalism of an exaggerated character was not a new phenomenon in international relations, and it had been a provocative cause of war long before the doctrines underlying *Mein Kampf* came to form the basis of a new order in Germany. But with the Nazi regime nationalism took on a fanatical character. It became a pathological condition dominating not merely the constitutional organization of the state but its foreign policy as well. Constitutional liberties disappeared. Government was no longer based upon the will of a free people, but upon the will of the Fuehrer. In foreign relations the basic principle of the juridical equality of states was denied. Expansion by means of the conquest of inferior peoples was openly proclaimed, and the conception of world domination became no longer the dream of visionaries but the program of men in power.

How was it that ideas so contrary to the inheritance of great masses of the German people could have taken so strong a hold upon them? Neither the economic grievances caused by the Treaty of Versailles nor the intrinsic worth of the new conceptions constituted of themselves a sufficient explanation of the unanimity with which a whole people responded to the call of their leader. Intimidation played a large part. But in addition to intimidation there was the ever-present and all-pervading power of the government to control and direct public opinion. On the one hand the Nazi Government was able to shut off the sources of information from abroad and the exchange of ideas within the country. By a rigorous suppression of public meetings, by denial of the freedom of the press, by a system of espionage, and by control of the instruments of communication with foreign countries, the Nazi regime was able to deny the free play of ideas that might have corrected the extravagances of its own ideology.

But of equal or perhaps greater effectiveness than mere suppression of freedom of information and expression was the power of the regime to direct the thought of the people by its monopoly of education and of radio broadcasting, which enabled it to instill into the minds of young and old alike sentiments of suspicion and distrust of other peoples. Every ill from which Germany suffered could be attributed to the acts and policies of foreign governments. Germany could be made to appear in danger of attack from states which themselves were fearful of a German attack. By persistent reiteration, ideas could be made to take on the character of fixed complexes, to which even normally fair-minded people fell victims.

By the time that the international community realized the imminent threat to the peace presented by the combination in the German Government of totalitarian control over the domestic life of the country and aggressive nationalism in its foreign relations it was already too late to act. For the German leaders had in their possession instruments of warfare which made it possible for them to inflict irreparable destruction upon individual states before the international community could organize its combined forces

to overcome the aggressor. What conclusion are international lawyers to draw from the experience? Clearly that the international community has the right to anticipate the purposes of such a government and to take measures in due time to prevent their accomplishment. This means, in practical terms, that in determining what constitutes a threat to the peace, in accordance with the terms of Chapter VII of the Charter, the United Nations may consider not merely the size and the strategic disposition of the military forces of a country but the totalitarian character of its government and the degree of aggressive nationalism which it manifests in the conduct of its foreign relations.

But these are elusive factors upon which to base a decision to take action to protect the peace of the community. The totalitarian character of the government might be agreed upon without difficulty. But the existence of *a dangerous form of aggressive nationalism would be a more subtle matter* to determine. Proclamations of national policy can not always be read literally. Ideologies do not always bear translation into terms of actual intent. It is scarcely to be expected that another Hitler, if he should arise, would proclaim his intentions so openly. Moreover, democracies are by their very nature slow to attribute to other states intentions of aggression which are contrary to their own constitutional traditions. Those which might be called upon to take the lead in anticipating acts of aggression would be by their very traditions of liberty and their respect for the rights of others reluctant to have recourse to force except in the presence of a threat to the peace so imminent as to leave no doubt of the danger of delay. Unhappily, as in the case of Germany, the final act of aggression, if a state should be intent upon committing one, would be carefully timed; and with the newest instruments of destruction at hand the act of aggression would probably have attained its objective before the international community had come to a decision to take action.

It would seem, therefore, that measures taken by the United Nations for the solution of the problem of military disarmament can only be partly effective unless accompanied by measures looking also to moral disarmament, to the elimination as far as possible of the spirit of fanatical nationalism that might lead a country to use new weapons of aggression when they became available to it. The fact that investigation by an international authority of the conditions existing in each country is made an essential condition of the plan of control of atomic energy proposed by the United States is of itself a confession that in so crucial a matter states are not prepared to trust their pledged word. That is not a matter of surprise, in view of past traditions of national defense and the complexes that have developed during years of political isolation. But even the most effective methods of investigation that may be adopted as a means of controlling the use of atomic energy may prove to be only partly successful unless some degree of mutual confidence can be created between states whose conflicting

ideologies are at present a cause of suspicion and distrust. Obviously this confidence can not be brought about by mere declarations of good intentions; it must be founded on mutual understanding based upon the recognition of common interests that surpass in scope and importance any differences that may exist in lesser matters. To bring about this recognition of common interests dominating all others, new rules of law are in process of development.

It is significant that whereas the Covenant of the League of Nations contained no suggestion of an international "bill of rights" the Charter of the United Nations refers to "human rights and fundamental freedoms" from the beginning to the end of that document. In summary the member governments pledge themselves to take joint and separate action, in coöperation with the organization, for the promotion of "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion." This is a far-reaching agreement, with clear implications of moral disarmament. If it can be given practical effect within a reasonable time there is hope that military and economic disarmament may become a reality. What does it mean in terms of international law?

In the first place it means that the political status of a people within its own borders is now a matter of concern to the international community. It is no longer a purely domestic question what liberties a state may choose to grant to its individual citizens. If the international community now demands certain fundamental rights for the citizens of every state, it does so not merely for altruistic reasons, to elevate the status of man as a human being, but rather as a condition of its own survival. Almost thirty years ago a great American statesman, Elihu Root, confronted with the conflict between democracy and German military autocracy, observed that the two opposing systems could not live side by side. "The world can not be half democratic and half autocratic. It must be all democratic or all Prussian. There can be no compromise." Today the conflict goes even deeper. It is not only a conflict between forms of government but between the ends and objectives of government, between ideologies, between conceptions of the kind of civilization that men are seeking to attain. Is the conflict an irrepressible one? There is no doubt that it is irrepressible in its military aspects. Competitive armaments would be a fatal obstacle to a world of law and order even if the several nations had the same forms of government and the same political ideals. Where they do not, as they do not today, the effect could not be in doubt. The invention of new instruments of destruction has merely given additional urgency to a problem that would in any case have been a pressing one.

But is the conflict equally irrepressible in its political and social aspects? Can democracy and dictatorship coöperate together for the ends proclaimed in the Charter? Can states which respect human rights and fundamental

freedoms come to rely upon the good faith of totalitarian governments and work hand in hand with them in the promotion of common interests? Are the conflicting ideologies actually in as sharp opposition as they appear to be? There is no definitive answer to be given to these questions. But certain conditions are clear if coöperation is to be effective. Dictatorship need not be it itself a direct threat to the peace. If it is in one sense a dangerous situation that millions, perhaps many millions, should be responsive to the call of a leader and should be ready to accept his judgment of their best interests and his decision as to the policy to be followed in relation to other states, yet the will of the dictator may not necessarily be aggressively nationalistic, it may not threaten the liberties of other peoples even though it denies them to its own people. Much would depend upon the power of the dictator, upon his own personal aims and ambitions, and upon the traditions of his people.

But if dictatorship and totalitarian government need not constitute a direct threat to the peace, it can scarcely be doubted that they constitute a latent or potential threat, a threat which may become actual when their control over the thought of their peoples goes so far as to instill false views and create a perverted conception of the attitudes and policies of other countries. In the present conflict of ideologies the one hope of peace lies in keeping open the channels of communication between one country and another, and in giving to every people access to the sources of information so that they may obtain a reasonably fair knowledge of the ideals and policies of other peoples. Official propaganda, by radio or press, directed against the policies of other states should be regarded as an act of aggression, only less of a menace to the peace than military threats because less imminent.

The conflict between opposing ideologies is therefore irrepressible or not irrepressible according to the extent to which the states holding them are prepared to refrain from hostile propaganda and to respect scrupulously the right of every state to pursue its own domestic ideals and to develop its own national civilization without interference by others. Tolerance is here the one condition of peace, tolerance and the fundamental principle so frequently emphasized by the American States of mutual respect by each for the sovereignty and independence of the others. The threat to the peace comes not from the democracies. Their traditional love of liberty, their tendency to question motives and to discuss policies, makes them reluctant to put pressure upon others and gives assurance that they would not abuse the power to control others if they had it. Fear of the possibility of future aggression is what creates suspicion and doubt; and it would appear that the best assurance that could be given by a state of the sincerity of its pledge not to encroach upon the liberties of other states would be the fact that within its own borders it observes scrupulously the liberties of its own citizens.

The members of the United Nations have pledged themselves to take joint and separate action, in coöperation with the organization, for the promotion of universal respect for and observance of human rights and fundamental freedoms. It is not to be expected that the respective pledges can be carried out by a single proclamation or decree. The fulfillment of the obligation by each state must in many cases be a matter of time. In large part the execution of the pledge must be left to the individual state, acting through its own constitutional procedures. Only where there is a threat to the peace is it to be expected that the Security Council of the United Nations will be called upon to take action. Here the problem will be one of degrees of danger. Apart from cases of fanatical nationalism, where the international community would be justified in taking prompt action, the most urgent situation is that of relieving the tension between states due to suspicion and distrust. To this end the channels of communication must be kept open and access to the sources of information kept free. This is not a counsel of perfection, but an obligation under existing law. The obligation is one which can not be deferred or qualified, for upon it depends the possibility of developing a sufficient degree of mutual confidence to make military disarmament possible. In this connection the American Republics have already led the way with the resolution of the Conference on Problems of War and Peace, held at Mexico City in 1945, which recommends: "That the American Republics recognize their essential obligation to guarantee to their people free and impartial access to the sources of information," and that measures be taken "to promote a free exchange of information among their peoples."

The urgency of the problem of moral disarmament gives to the program of the United Nations Educational Scientific and Cultural Organization a high political as well as a social character. UNESCO can not be expected to meet acute or overt threats to the peace. That problem, if unhappily it should arise, must remain for the Security Council of the United Nations. But the new agency, assuming universal membership in due time, should be able, in collaboration with the Commission on Human Rights of the United Nations, to accelerate greatly the progress of states in removing the barriers to mutual understanding. The constitution of the agency emphasizes significantly that a peace based exclusively upon the political and economic arrangements of governments would not be one that could obtain the sincere support of the peoples of the world and that a lasting peace must be founded "upon the intellectual and moral solidarity of mankind."

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SOVEREIGNTY IN ANTARCTICA

The recent sending of a large United States expedition to Antarctica has revived interest in the complicated legal problems relative to the acquisition