

BOOK REVIEW

International Legal Protection of the States' Territory in the Collective Security System (in Polish). WACLAW PETSCH, Warsaw: Panstwowe Wydawnictwo Naukowe, 1978. 351 pp. Annex, Indexes, summaries in English and Russian.

Here we have a thorough study on an important problem. Dr. Petsch offers to the reader a thoughtful analysis of the theoretical foundations and positive rules regulating the protection of the territorial integrity of the States in the system of collective security in the light of international law. Even though, in the introduction, the author points out the limits which he imposed on his research, drawing from international law rather than from philosophy, political sciences, history, ethnology, sociology or geography,¹ his observations exceed by far the bounds of one field of human knowledge and relations and reflect, to a large extent, the personal ideas of the author. The text is followed by more than forty pages of annexes, representing international documents relevant to the questions under consideration, extensive indexes, and a bibliography, as well as summaries in Russian and in English which, unfortunately, have not been written very well.

Dr. Petsch begins by analyzing the main features of the international system in its historical development, and then passes to a description of the international legal order, characterizing the charter of the United Nations as a constitution of the international society² and emphasizing the system of collective security. The main purpose of the organization is to assure world peace. In order to achieve this goal, some important principles in the conduct of international relations must be observed. The most important of these principles, according to the author, are the prohibition to use force or threats, the principle of the inviolability of the borders and integrity of the State territory, the protection of the political independence, and also the principles of equality of sovereign states, of non-intervention, of peaceful settlement of disputes, and of mandatory co-operation between the States.³ Some of the principles on which international relations are based have a static character and aim at the preservation

¹ W. PETSCH, *INTERNATIONAL LEGAL PROTECTION OF THE STATES' TERRITORY IN THE COLLECTIVE SECURITY SYSTEM* 8 (1978).

² *Id.* at 33.

³ *Id.* at 54.

and protection of the existing institutions and values. But there are other principles the purpose of which are to insure a proper development of international relations. In the first place, the author mentions the principle of protection of human rights and that of self-determination of peoples.

Passing to the protection of State territory, Dr. Petsch analyzes the old doctrine of just and unjust war and the early projects of an international organization, both of which were going in the direction of stability in the relations among nations and respect of their territories. For centuries to come, these ideas could not be realized, but bilateral or multilateral alliances and other treaties were frequently performing the functions of guaranteeing the borders of the states. The Covenant and the system of the League of Nations were to replace these individual arrangements by the principle of collective security, assuring the inviolability of territories to the member states. However, some mistrust in the effectiveness of the League resulted in the continuation of the old practice of entering into various international treaties. The author gives special consideration to American developments in this area, beginning with the Articles of Confederation of 1777 and the Monroe Doctrine of 1823.

By the 1920s the international community had reached the stage of recognizing that "the only lawful form of changing the existing territorial and political status of a state is peaceful change."⁴ Otherwise, there is responsibility for aggression. However, no general definition of aggression had been accepted by the members of the League.

In the Charter of the United Nations, the final text of Art. 2(4) provides that the members of the Organization abstain, in conducting international relations, from the use of force or from the threat to use force against the territorial integrity or independence of any state. Nor shall any member act in any other way contrary to the purposes of the organization. Interpreting the charter, the author reaches the conclusion that the use of force was permitted only in two situations: enforcement actions following a decision of the Security Council; and collective or individual self-defense, in accordance with Art. 51 of the Charter.

Dr. Petsch analyzes the functioning of the system of collective security of the Charter in light of the frequent inability of the Security Council to reach decisions and the methods devised or recommended to counteract its ineffectiveness (such as the "Uniting

⁴ *Id.* at 111.

for Peace" resolution and the establishment of regional organizations for collective security). Aggression has been defined by a resolution of the General Assembly, as "the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations" ⁵ Protection of State territory in regional arrangements is then examined, and relevant texts interpreted. From the Organization of American States, the author passes to the Organization of African Unity.

But, along with the necessity of stability in international relations, there is need for some changes. After some observations of sociological, historical, and cultural character, Dr. Petsch examines the dynamics of national and international development and their legal implications. He points out that Art. 19 of the Covenant of the League of Nations reflected the idea of peaceful change by providing that the Assembly may advise the reconsideration of obsolete treaties and conditions which may endanger the peace. However, the requests to apply this provision to peace treaties of Chile with Bolivia and Peru (in particular, with the view of revising the provisions dealing with the borders between the countries) did not meet with success. ⁶

After World War II, some territorial changes in Europe were agreed upon, most of them in favor of the Soviet Union and at the expense of Germany and its allies. As justification, the author cites historical and ethnic reasons in addition to the primary reason of security. So established, the new frontiers were guaranteed, in Art. 2(4) of the Charter of the United Nations, against changes by force. On the other hand, in Art. 14 of the Charter the author sees a declaration that peaceful changes are acceptable in the system of the United Nations. As a matter of fact, in the first decade of the Organization, not less than 17 territorial matters were considered either by the General Assembly or the Security Council. ⁷ Some others were submitted to the International Court of Justice.

However, Dr. Petsch feels that international society needs both a better developed set of substantive rules providing for instances permitting territorial claims and well-established procedures. ⁸ Traditionally, the usual questions to be considered were: the manner in

⁵ *Id.* at 135.

⁶ *Id.* at 193.

⁷ *Id.* at 205.

⁸ *Id.* at 212.

which the territory in question was acquired; the wishes of the population; the problems of security; historical elements; and economic factors. Dr. Petsch analyzes the well-established rules on acquiring and losing territory and points out that they must conform to the principles on which the United Nations are based. In particular, territorial changes brought about by acts of aggression must be treated with mistrust, and the right to self-determination given special emphasis.⁹ The author analyzes at length this right, its history, application, and limits in light of the fact that some territories are so small in area, or so sparsely populated, that they could not constitute viable states. Lastly, he asserts that the principle of integrity of a state's territory should be supplemented by a guarantee of its borders. In sum, Dr. Petsch's book offers an interesting discussion of a timely and important problem. It is written in simple language, understandable to laymen, but it should be read primarily by international law jurists and political scientists. My main criticism concerns the unnecessary citations from Soviet and other Eastern authors. In most cases, they do not offer anything interesting or new to the book. But probably, as with many other books, this one could not be published without an attempt to indicate how much the socialist thinkers contributed to the development of the problems discussed.

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⁹ At 229.

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