

CORRESPONDENCE

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TO THE EDITOR IN CHIEF:

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When two such legal giants as Professors W. Michael Reisman and Oscar Schachter tangle, as they did in the Editorial Comments of the July 1984 *Journal*, it is the law itself that gets trampled. Reisman is certainly right in noting that Article 2(4) of the UN Charter cannot be interpreted in a vacuum. Its prohibitions against the threat or use of force were part and parcel of a collective security plan that envisaged peaceful settlement of disputes and an international military force. His frustration with the ineffectiveness of the world organization prompted his argument that if the political independence of a people—a major goal of international law—is being subverted by a repressive regime aided by a foreign source, it is within the spirit of the Charter for another state to intervene militarily to preserve the political independence of the suppressed community. Schachter acknowledges the importance of self-rule but doubts that it is secondary to such competing aims as the maintenance of peace. He warns that weakening the restraints of Article 2(4) only increases the risks of armed intervention by powerful states claiming to be responsive to the popular will. He finds Reisman's contention to be flawed and ominous: "it is not, will not and should not be law" (p. 650). Such diametrical views by outstanding experts may cause the perplexed reader to conclude that international law is confused, and ambiguous or useless.

What should be noted is the fact that humankind's effort to control armed violence is part of a long, evolutionary process that has not yet reached maturity. Every nation, town and village has recognized that a tranquil community requires clear laws, courts and an effective system of law enforcement. In international society, these essential ingredients are still in an early stage of development. But there is no reason for despair. The UN consensus definition of aggression, work now being done on a draft Code of Offences against the Peace and Security of Mankind, and the law of the sea illustrate progress in the codification and clarification of norms. The Nuremberg trials to punish aggressors, the courts of human rights and those of the European Community demonstrate the importance of the judicial process. Proposals to improve the United Nations, revise the Charter and strengthen peacekeeping missions reflect other efforts to make international law enforcement more effective. Worldwide demands for demilitarization indicate the urgent need for restructuring the existing world order. All of these efforts must be supported. The Charter plan was never tried and must be given a chance.

Progress is never made in a straight line; there is frequent regression, as illustrated by the refusal of many nations to accept compulsory jurisdiction of the International Court of Justice, the failure to honor the pledges

of the Charter (and the Covenant of the League) that an international force would be created, and the reliance instead on weapons of mass destruction as guardians of the peace. Unilateral use of armed force—for whatever reason—represents the greatest threat to world order for it may become the spark to ignite the tinderbox. Actions that impede progress must be resisted.

Editorial debates are useful for highlighting some of the difficulties, but they should not serve to diminish the enthusiasm for law or the determination to pursue all of the many measures that will be required before international law can be truly effective as an instrumentality for world peace.

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