

Editorial

ASPECTS OF CO-EXISTENCE

Nothing gives better competence to express an opinion on a problem than experience. To most of the captive European nations the problem of co-existence with Russia is as old as the state of Russia itself, and its neighborhood to our nations. One needs only to recall the main events of the long history of these neighborly relations to conclude that they always were marked by a constant struggle of our nations against Russian expansionism and, at times, even Russian megalomania.

As far as Lithuania is concerned, her neighborly relationship with Russia has been that of a big beast and its unfortunate prey for hundreds of years. Through centuries Lithuania had to fight for its sheer national existence against Russification. Russian megalomania in its present Bolshevik form even had plans to exterminate the soul of the Lithuanian nation. Political independence was possible only in the wake of a collapse of the political power of the men in the Kremlin and the weakening of their physical means of subjugation and annihilation.

Lithuanians could never escape this relationship, its nature and its consequences. They have always been Russia's neighbors since early times and shall remain her neighbors as long as their nation inhabits the territory given her by destiny. Neighborly co-existence with Russia is their fate. They have to live with it and in it.

This means that the independence of their nation and the liberty of the Lithuanian individuals is a matter of constant struggle and fight — when lost it is to be regained, when achieved it is to be preserved against the permanent Russian danger. Whereas co-existence in this sense is an inescapable truth, the main target and aim of Lithuanian statesmanship is to keep the Russian neighbor at a distance. Lithuania never has been happy with the co-existence and shall always be happier with the distance.

We believe the recent history of our nation would have been much, much happier if we had been able properly to realize not only the power and scope of the Russian danger, but also the inherent advantages which lay in our neighborly and friendly relationship with other nations. If some of us saw them, they did not see them in time. If others of us did not see them at all, it was because they fell prey to the spirit of the times.

13 there any real co-existence at all between East and West? Let us for a short while think along the lines of legal thought.

We will not dwell in detail on the profound differences between Eastern and Western legal thought. Where, as in the East, ideology centers around the state — its power and selfishness — the individual — his liberty and dignity — has no place in law; at the most he is restricted to a nominal and formal place. Glorification of dictatorship and of unrestricted state sovereignty are the fundamentals of Eastern law. Despotism and arbitrariness in dealings with the West is the result. There can be no sound reconciliation with Western legal thought.

As to international law, two different systems exist today: the Eastern system and the Western system, both based on different and antagonistic ideologies. The Russian school of law frankly admits that there can be no lasting cooperation between these two systems.

According to this school, the relationship between Eastern or (as they call it) "Socialist" international law and Western international law can be only that of a temporary compromise, lasting only until the day of the complete victory of world Communism over Capitalism and final replacement of "bourgeois" international law by the inter-Soviet law all over the world.

Until then, Western international law is considered a catalogue of rules and legal notions and institutions of which those useful to the political aims of Bolshevism are accepted and of which those detrimental or of no advantage are rejected — all according to the merits of the individual case and of the political situation of the day.

To the East, law is only a means to implement political tasks, of which the security of the Soviet Union is the most important. To quote Koshevnikov, one of the theorists of the Eastern school: "The Socialist State has no relationship with modern, i.e., Western, international law. In this question the Soviet Union bases its action exclusively on the requirements of its own security. Those institutions of international law which conform with this task are accepted and implemented by

the Soviet Union, those which do not conform, are rejected."

It is easy to realize why any change affecting the security and selfish interests of the Soviet Union automatically results in a change of the Russian position towards Western international law and its various institutions in general and to its own obligations towards the West, in particular. This is why the basic international rule of "PACTA SUNT SERVANDA" is of so little importance to the East, whereas the legal institution of the "CLAUSULA REBUS SIC STANTIBUS" is of such highly practical value to the East. This is why all legal obligations of the East are always made under the reservation that they last only as long as the interest prevails which it is supposed to serve.

To mention one example of the practical workings of the relationship between Eastern and Western legal thought and the arbitrary selection of what is considered valuable and acceptable to the East and what is not, we shall refer to the Russian translation of Oppenheim's well-known Treatise on International Law and Professor Krylov's (former member of the International Court of Justice at the Hague) introduction to the translation. He says that some parts of the Treatise have been omitted in the Russian translation because "they are of no interest to the Soviet reader." Which parts have been omitted? Among others, those which criticize the Soviet position towards Western international law and those which are connected with the Western legal view as to Russia's annexation of the Baltic States.

There exists not the slightest intention on the part of the East to discuss even the possibility of a reconciliation of Eastern and Western legal thought. Intolerance and strict rejection of the faintest approach is the rule. Here again we see the famous Iron Curtain. We see part of the legal side of an ideology which not only refuses to recognize a real co-existence with the West, but even strictly prohibits it.

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