

# LAW AND CONTEMPORARY PROBLEMS

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## FOREWORD

Contrary to hopes occasionally evident in this symposium and implicit in its title, propaganda of the serious "warmongering," "subversive," and "defamatory" varieties is not likely soon to be subjected to strong international control, particularly in those contexts where the need for such control is most obvious. If and when substantial change does come, it will probably be as a token of a larger relaxation in the attitudes of the major powers, and it will most likely take the form of a *de facto* slowdown of the respective propaganda machines rather than of adoption of outright international controls. Nevertheless, it is certainly worthwhile to consider, as our contributors have done, what might be done to curb the worst abuses, to achieve controls in peripheral tension spots, and to reduce even slightly the risks of a war inflamed by propaganda. For example, there is surely some benefit to be gained by calling attention to propaganda's role in escalating minor conflicts, by encouraging regional or bilateral moratoria on propaganda, and by making propaganda restraint a central concern of diplomacy where conflicts are sought to be minimized. Moreover, our relative inability to enforce international law principles in practice does not automatically render their reaffirmation fruitless.

Even if the object of achieving prompt and effective propaganda control is unlikely to be achieved, the symposium's value and interest are unimpaired, for perhaps its most provocative aspect is the inquiry and evidence offered as to why international society is not prepared to accept, or unable to impose, limits on this convenient but disruptive instrument of policy. The symposium is thus a fascinating case study of the frustrating limitations of international law in dealing with issues central to the ongoing ideological struggle.

Several of our contributors point out that propaganda directed from one nation to another may be less dangerous, because subject to effective reply, than propaganda designed for domestic consumption, and that government propaganda on the home front outweighs privately generated warmongering as a threat to peace. This circumstance provides the justification for much American propaganda beamed to countries where a government monopoly on news and opinion exists, and the continuing controversy about "managed news" in the United States government, particularly in regard to the Vietnam conflict, suggests that western democratic governments may also engage in propagandizing of a sort among their citizens. But if control of propaganda between nations poses a serious practical problem, the idea of regulating communications between a government and its domestic population

seems utterly unworkable and outside the usual province of international law as well. Thus, that type of propaganda most likely to exacerbate tensions and result in war is least amenable to international control.

Perhaps it is paradoxical that one remedy for government monopoly or domination of news and opinion is international propaganda, sometimes even of a sort that might be fairly characterized, from the target government's point of view at least, as warmongering, subversive, or defamatory. One may therefore easily prefer not to close off channels of communication that may serve to keep domestic sources of information in the target state relatively honest. By extension of this thinking, an issue may even be raised—and is briefly—about the constitutionality of a hypothetical United States effort to “jam” a foreign political broadcast. And a broad conclusion seems at least possible that would keep all communication channels open, would avoid inhibiting free expression by attempting to distinguish—except perhaps in the most extreme and obvious cases—between truth and falsehood or between harmful and beneficial propaganda, and would tolerate serious and admittedly dangerous types of propaganda as a necessary concomitant of an international “marketplace of ideas.”

None of our contributors has gone so far as to argue against any propaganda control, but it must be expected that permanent remedial action will be more difficult because both sides of the conflict have strong motives for keeping communications uncontrolled and also some ability to rebut propaganda that is directly damaging to their respective interests. Therefore, one is led to look to gradual establishment of the “right of reply” as the most likely means of achieving substantial progress in minimizing propaganda's ill effects. Such a development would have the additional advantage of not reducing—indeed of increasing—the international interchange of ideas, and it is appropriate to at least suggest that the interests of peace might be furthest advanced in the long run by promoting such interchange, increasing the respect of nations for the truth, and allowing propaganda to act as a means of bringing pressure against repressive regimes of all kinds. As an illustration to support this argument one could claim that China would not be as great a threat to world peace as it is today if it were less effectively insulated from western, Russian, and pro-Chiang propaganda and that the best hope for moderation of its policies lies in increasing contacts of a propagandistic variety.

With the exception of the contributions by Messrs. Grzybowski and Falk, the papers that follow were presented, or were evolved from papers presented, at a conference organized by the International Law Society of the Duke Law School in February 1966. *Law and Contemporary Problems* is proud to publish this provocative set of articles and is indebted to the student members of the Society for obtaining the appearance of so distinguished a group of participants and for arranging for this publication of the conference's results.

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