

Kazimierz Grzybowski

# **SOVIET PUBLIC INTERNATIONAL LAW**

**Doctrines and Diplomatic Practice**

# SOVIET PUBLIC INTERNATIONAL LAW

DOCTRINES  
AND DIPLOMATIC PRACTICE

by

KAZIMIERZ GRZYBOWSKI

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## PREFACE

A third of a century has elapsed since Taracouzio's "Soviet Union and International Law" (1935) made its appearance. In that period the position of the Soviet Union and its participation in the formulation of the principles and rules of the international legal order have changed fundamentally. A number of important and very valuable contributions to the study of Soviet international law from the pen of Western jurists were published in that period. However, Taracouzio's study has remained the only comprehensive treatment in this field.

The study of Soviet international law is important for two reasons. First, the Soviet position on various issues is taken with reference to the principles and rules of the general system of international law. Second, it is also important to determine the working of its institutions in the life of the international community, as Soviet foreign policy represents a documented exposition of limitations imposed by Soviet power on the operation of traditional rules of international law.

The scholarly community in the United States seems to recognize the need for the study of Soviet practice and theory of international law. At the same time, however, there is little comprehension of the special problems connected with the research of Soviet affairs in this area.

There is a small band of scholars who, with great insight, insist on the analysis of the function of the rule of law in terms of policies shaping the life of the international community. The majority, in contrast to the modern trend of legal study in other areas of legal ordering (primarily in public domestic law as it affects property and contractual relations) has little concern with those forces which affect the interpretation and context of the role of law in international relations. They are engaged in a highly formalized study of various legal documents: treaties, decisions of international tribunals, charters and statutes of international organizations. They pay little attention to those aspects of international relations which determine the shape of the international community: interests of individual powers, or groups of powers, technical advances and emergence of the industrial economies, which affect the balance of forces and add weight to claims and demands of some members of the international community.

Another reservation which needs to be made is that the present book is not the study of Soviet theories of international law with reference to teachings of Marxism-Leninism. These theories are reviewed and confronted with Soviet diplomatic practice. Their importance as an extension of the dialectical method, or of the materialistic interpretation of history, is outside

the scope of this book. The general effect of this approach is that frequently doctrines formulated by Soviet scholars, which may be important in terms of the theoretical foundations of Marxism-Leninism, are shown to be irrelevant for the understanding of Soviet diplomatic practice.

It is hoped that this book will demonstrate that Soviet international law belongs to the mainstream of international legal studies. It is true that owing to Soviet hostility toward adjudication as a method for resolution of international disputes, a formalized study of Soviet international law is not possible, and that foreign policy is the main source of information for research in that area. At the same time it is suggested that greater concern with international policies of the more important members of the international community, to the extent that they concern the use of international law and its role in the working of international public order, is indispensable.

This does not mean that international law should be identified with foreign policy. International law studies must always be concerned with the content and systematic arrangement of its rules, principles and institutions. And yet only a thorough analysis of diplomatic practice and foreign policy may inform the reader of the real role of the legal rule in ordering international relations, and suggest the reasonable degree to which a rule, principle or institution of international law may be expected to determine the behavior of states and governments in similar situations in future.

It is my pleasant duty to thank all those who made this book possible. My thanks are due in the first place to the Carnegie Corporation, to Duke University Council on Research and to the Rule of Law Research Center for financial assistance and free time for research and writing. A special tribute goes to Dr. Arthur Larson, Director of the Center, for his active interest in this undertaking. The Law Library of the Library of Congress and my former colleagues there deserve recognition for their help, advice and kind assistance in the use of its priceless collections. My dear friend and associate from the Center John Halderman read conscientiously the entire manuscript offering numerous suggestions which improved its readability and context. Finally, my thanks goes to the secretaries of the Center, who have typed the manuscript, proofread and prepared it for printing.

The present work relies on earlier studies, and the footnotes to the text record whenever possible my debt to other scholars. I would also like to record my debt to two distinguished jurists, legal historians and professors of international law who have introduced me into its study. Ludwik Ehrlich of the University of Lwow and lately of the ancient Jagellonian Academy of Cracow and Manley O. Hudson of the Harvard Law School—both no longer among us—have earned my lasting gratitude.

Durham, November, 1969.

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## ABBREVIATIONS

|              |                                                                                                                                                                                                                                                                                                                     |
|--------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| AJIL         | <i>American Journal of International Law</i>                                                                                                                                                                                                                                                                        |
| Cal.         | <i>A Calendar of Soviet Treaties 1917-1957</i> (1959)                                                                                                                                                                                                                                                               |
| Dok.         | Ministerstvo inostrannykh del SSSR, vol. i-(1957).<br><i>Dokumenty vneshnei politiki</i> (Ministry of Foreign Affairs of the USSR Documents of foreign policy)                                                                                                                                                      |
| DU           | <i>Dziennik Ustaw</i> (Polish Official Law Gazette) 1920-                                                                                                                                                                                                                                                           |
| ICJ Rep.     | International Court of Justice, <i>Reports</i> , 1949-                                                                                                                                                                                                                                                              |
| ILC          | International Law Commission, <i>Reports</i> , 1949-                                                                                                                                                                                                                                                                |
| Lenin, Soch. | Lenin— <i>Sochineniia</i> (4th ed) (1940-60)                                                                                                                                                                                                                                                                        |
| MEO          | Akademia Nauk SSSR, Institut Mirovoi Ekonomiki i<br>Mezhdunarodnikh Otnoshenii, <i>Mezhdunarodnye<br/>Ekonomicheskie Organizatsii</i> (2nd ed. 1962) (Academy of<br>Science of the USSR, Institute of World Economy and<br>International Relations, International Economic Organi-<br>zations)                      |
| NYT          | <i>New York Times</i>                                                                                                                                                                                                                                                                                               |
| RCADI        | <i>Recueil des Cours d'Academie de Droit International à la<br/>Haye</i>                                                                                                                                                                                                                                            |
| RGDIP        | <i>Revue général de droit international public</i>                                                                                                                                                                                                                                                                  |
| Sbirka       | <i>Sbirka Zakonu Republiki Ceskoslovenske</i> (Collection of<br>Laws of the Czechoslovak Republic) 1918-                                                                                                                                                                                                            |
| SDD          | Ministerstvo inostrannykh Del, <i>Sbornik<br/>deistvuiushchykh dogovorov, soglashenii i konventsii<br/>zakliuchonnykh SSSR s inostrannymi gosudarstvami</i><br>1924- (Ministry of Foreign Affairs, Collection of<br>Treaties, Agreements and Conventions in Force<br>Concluded by the SSSR with Foreign Countries.) |
| SDD RSFSR    | <i>Sbornik deistvuiushchykh dogovorov, soglashenii i<br/>konventsii, zakluchennykh RSFSR s inostrannymi<br/>gosudarstvami</i> (Collection of Treaties of the RSFSR)<br>1921-23                                                                                                                                      |
| SDDtD        | <i>Sbornik deistvuiushchykh torgovykh dogovorov i<br/>innykh khoziaistvennykh soglashenii SSSR,<br/>zakluchennykh s inostrannymi gosudarstvami</i><br>(Collection of commercial agreements of the USSR)<br>1935-36                                                                                                  |
| SEMP         | <i>Sovetski ezhegodnik mezhdunarodnogo Prava</i> (Soviet Year-<br>book of International Law)                                                                                                                                                                                                                        |

|               |                                                                                                                                                                                                                                                                                             |
|---------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| SG            | <i>Sovetskoe Gosudarstvo</i> (Soviet State)                                                                                                                                                                                                                                                 |
| SGP           | <i>Sovetskoe Gosudarstvo i Pravo</i> (Soviet State and Law)                                                                                                                                                                                                                                 |
| Sots. Zak.    | <i>Sotsialisticheskaia Zakonnost</i>                                                                                                                                                                                                                                                        |
| Stalin, Soch. | <i>Sochineniia</i> (Works) 1946-                                                                                                                                                                                                                                                            |
| STM           | <i>Sbornik mezhdunarodnikh konventsii, dogovorov, soglashenii i pravil po voprosam torgovogo moreplavania</i> (1959) (Collection of International Conventions, Treaties, Agreements and Regulations on Maritime Trade)                                                                      |
| SU RSFSR      | <i>Sobranie zakonov i rasporiazheni raboche-krestianskogo pravitelstva RSFSR 1917-</i> (Collection of Laws and Decrees of the Worker-Peasant Government RSFSR 1917- )                                                                                                                       |
| SZ            | <i>Sobranie zakonov i rasporiazhenii Raboche-Krestianskogo Pravitelstva SSSR 1923-37</i> , Otd. I, Otd. II. (Journal of Laws of the USSR, Sec. I, Sec. II) 1924-37.                                                                                                                         |
| UNTS          | <i>United Nations Treaty Series</i>                                                                                                                                                                                                                                                         |
| Ved.          | <i>Vedomosti Verkhovnogo Soveta SSSR</i> (Bulletin of the Supreme Soviet of the USSR) 1938-                                                                                                                                                                                                 |
| Vestnik VCIK  | <i>Vestnik Tsentralnogo Iсполnitelnogo Komiteta, Soveta Narodnikh Kommissarov i Soveta Truda i Oborony SSSR; Postanovleniia i rasporiazheniia rabocheho i krestianskogo pravitelstva SSSR (1923-24)</i><br><i>Sobranie postanovlenii Pravitelstva SSSR (1924- )</i> (Official Gazette USSR) |
| VPSS          | <i>Vneshnaia politika SSSR, Sbornik Dokumentov</i><br>1) (Foreign Policy of the USSR, Collection of Documents) vols 1-<br>2) <i>V period otechestvennoi voiny</i> (in the period of the Patriotic War) vols 1-3<br>3) years 1945-1950                                                       |
| VT            | <i>Vneshnaia Torgovla</i>                                                                                                                                                                                                                                                                   |

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