

# Ronald Reagan and International Law

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## Abstract

*Doctrines always play an important law in US foreign relations and policy. Under the presidency of Ronald Reagan (1981-1989), international politics and the role of the US at the global level significantly changed. President Reagan firmly believed that the Soviets were weaker economically than the intelligence community believed – and from this point on, the US definitely won the Cold War against the Soviet Union. The US policy under President Reagan finally led to the fall of the Soviet bloc in 1989, and to the independence of the Central and Eastern European states, including Hungary. The article tries to evaluate the role President Reagan played at the level of international law in this period.*

**Keywords:** US, Hungary, Soviet Union, Reagan doctrine, Reagan corollary.

## 1. Introduction

In his last debate with President Jimmy Carter in 1980, Ronald Reagan asked the US public: “Is America as respected throughout the world as it was? Do you feel that [...] we are as strong as we were four years ago?” Throughout the campaign, Reagan made clear his conviction that the international prestige and power of the US had declined under the previous presidents of the country. President Reagan particularly wanted to redefine US national policy towards the Soviet Union. On one hand, he had supported the fundamental policy of containing the Soviet Union that President Harry Truman adopted in 1947 and was subsequently followed by all presidents of the US. However, President Reagan believed that the Soviets had taken advantage of *détente*, as practiced by Presidents Nixon, Ford and Carter. Reagan was firmly convinced that the Soviets were economically weaker than the intelligence community believed. As early as 18 June 1980, Reagan underlined that “it would be of great benefit to the US if we started a buildup”, because the Soviets would be unable to compete and would have come to the bargaining table.

The international law-related aspects of Ronald Reagan’s presidency were discussed in several articles, and some of them display a rather critical attitude

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towards the Reagan Administration and its policy.<sup>1</sup> On the 100th anniversary of the beginning of the diplomatic relations between the US and Hungary, the time has come to evaluate the importance of President Ronald Reagan in public international law, because the US policy under President Reagan definitely led to the fall of the Soviet bloc in 1989, and to the independence of Central and Eastern European, former communist states, including Hungary.

## 2. International Law Issues under Reagan – An Overview

The Presidency of Ronald Reagan seriously influenced the development of public international law. As a non-exhaustive lists of the most important events, one can mention the invasion of Grenada in 1983,<sup>2</sup> the US standpoint concerning the draft of the International Convention on the Law of the Sea,<sup>3</sup> supporting the Nicaraguan contras, which, as is well-known, led to the *Nicaragua* case<sup>4</sup> before the ICJ. A detailed analysis of these cases is, however, beyond the scope of the present article.

During Reagan's presidency, the international law-related event with the greatest impact was the implementation of the so-called *Reagan doctrine* and the so-called *Reagan corollary*, since both bore on the foundations of international peace and security. The main object of the present article is therefore to demonstrate the lawfulness of these measures and to discuss considerations of international law with respect to their implementation. For the purposes of this article, a doctrine is defined as a prerogative in international public law that is successfully claimed by the state.<sup>5</sup> A doctrine is essentially a pre-issued statement specifying the response of the state to the behavior of other states. Insofar as other states are willing to accept that the doctrine specifies political consequences

- 1 See e.g. Burns H. Weston, 'The Reagan Administration versus International Law', *Case Western Reserve Journal of International Law*, Vol. 19, Issue 3, 1987, pp. 295-302; John King Gamble Jr., 'International Law in the Reagan Years: How Much of an Outlier', *Akron Law Review*, Vol. 23, Issue 3, 1990, pp. 351-370; Hauke Hartmann, 'US Human Rights Policy under Carter and Reagan, 1977-1981', *Human Rights Quarterly*, Vol. 23, Issue 2, 2001, pp. 402-430; Paul H. Kreisberg, 'Does the U.S. Government Think that International Law Is Important', *Yale Journal of International Law*, Vol. 11, Issue 2, 1986, pp. 479-491; Amy Young, 'Human Rights Policies of the Carter and Reagan Administrations: An Overview', *Whittier Law Review*, Vol. 7, Issue 3, 1985, pp. 689-696.
- 2 Grenada had gained independence from the United Kingdom in 1974. The situation in Grenada had been of concern to US officials since 1979, when the leftist Maurice Bishop seized power and began to develop close relations with Cuba. In 1983, another Marxist, Bernard Coard, had Bishop assassinated and took control of the government. On 25 October 1983, the US and a coalition of six Caribbean nations invaded Grenada, under 'Operation Urgent Fury'. The UN General Assembly condemned the invasion as "a flagrant violation of international law" on 2 November 1983, by a vote of 108 to 9.
- 3 George D. Haimbaugh Jr., 'Impact of the Reagan Administration on the Law of the Sea', *Washington & Lee Law Review*, Vol. 46, Issue 1, 1989, pp. 151-200.
- 4 ICJ, *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v United States of America)*, judgment, ICJ Reports 1984, p. 392.
- 5 Albert Bushnell Hart, *The Monroe Doctrine: An Interpretation*, Little Brown, 1916, pp. 80-81. The other meaning of the word 'doctrine' is the teachings of the science of international law.

in response to the actions of the other members of the community bound by international law, those other states tacitly acknowledge the doctrine state's right to behave in accordance with the pre-announced course of action. In many cases, most of the actions specified by the doctrine in response to the behavior of other states cannot be categorized as friendly actions, but the edge of the behavior is dampened by the fact that it was announced before the event, thereby making it predictable. A more accurate classification defines doctrine as *an autonormative unilateral act* on the part of the state, announcing its intention to respond to behaviors exhibited by other international legal entities that infringe upon its interests.

The *Reagan doctrine* emerged in an unusual manner, as it was much rather discovered, than proclaimed. When President Reagan delivered his State of the Union address on 6 February 1985, he did not plan to announce a guiding principle of his administration's foreign policy. After he finished his address, no one recognized that the speech contained a doctrine until weeks later, when a political commentator declared that he had found a grand statement of foreign policy hiding in plain sight.<sup>6</sup> As a brief summary, the Reagan doctrine was used to characterize *the Reagan administration's policy of supporting anti-communist insurgents wherever they might be.*<sup>7</sup> A prominent example of implementing the Reagan doctrine is Nicaragua, where the US covertly assisted the Contra rebels fighting to oust the Cuban-backed Sandinista government, and Afghanistan, where the US provided material support to the Mujahideen rebels fighting to end the Soviet occupation of their country.

The *Reagan corollary* supplemented the Reagan doctrine in foreign affairs. The Reagan corollary is not merely a careless disregard for international law: *it was an attempt to pressure the international legal system into changing in a manner beneficial to US interests.* In order to orchestrate such change, the Reagan administration had proffered new rules of international law, relied on previous versions of existing rules, and reinterpreted existing rules and treaties by applying them in unprecedented contexts. The common threads connecting these practices are the assertion of unilateral state action and a broad right of self-defense, less reliance on international institutions such as the UN, and an emphasis on a state's right to pursue its national interest.<sup>8</sup>

6 Chester Pach, 'The Reagan Doctrine: Principle, Pragmatism, and Policy', *Presidential Studies Quarterly*, Vol. 36, Issue 1, 2006, p. 75.

7 As President Reagan summarized in his speech, "We must stand by our democratic allies. And we must not break faith with those who are risking their lives – on every continent, from Afghanistan to Nicaragua – to defy Soviet-supported aggression and secure rights which have been ours from birth."

8 Stuart S. Malawer, 'Reagan's Law and Foreign Policy, 1981-1987: The "Reagan Corollary" of International Law', *Harvard International Law Journal*, Vol. 20, Issue 1, 1988, pp. 85-86.

### 3. US Policy and International Law – from Monroe to Reagan

The position of the US as a great power in the world was determined by the *Monroe doctrine* for almost a hundred years.<sup>9</sup> Secretary of State John Quincy Adams expressed his concerns to the President to the effect that Spain, being in the process of losing its American colonies, might receive assistance from other European powers. He was further concerned about the expansion of the Russian Empire in Alaska. The Secretary of State persuaded President Monroe to declare that the US ceased to regard the Americas as a destination of colonization by the great powers of Europe. As a part of the Monroe doctrine, it was further stated that with consideration to the differences in the political structures of the European states and the American states, any attempt to extend the European influence to the Americas was unwelcome. The Monroe doctrine was announced on 2 December 1823, in President James Monroe's seventh annual message to the Congress. *The European powers, according to Monroe, were obligated to respect the Western Hemisphere as the US' sphere of interest.* In simple terms, the Monroe doctrine is often summarized with the slogan "*America for the Americans.*" In fact, President Monroe made four basic points: (i) the US would not interfere in the internal affairs of, or the wars between European powers; (ii) the US recognized and would not interfere with existing colonies and dependencies in the Western Hemisphere; (iii) the Western Hemisphere was closed to future colonization; and (iv) any attempt by a European power to oppress or control any nation in the Western Hemisphere would be viewed as a hostile act against the US.<sup>10</sup> The Monroe doctrine was invoked in 1865, when the US government exerted diplomatic and military pressure in support of the Mexican President Benito Juárez. This support enabled Juárez to lead a successful revolt against Emperor Maximilian, who had been placed on the throne by the French government. In 1904, President Theodore Roosevelt added an extension to the Monroe doctrine (the so-called *Roosevelt corollary*), which stated that in cases of flagrant and chronic wrongdoing by a Latin American country, the US could intervene in that country's internal affairs. In 1962, the Monroe doctrine was invoked symbolically when the Soviet Union began to build missile-launching sites in Cuba.

Although the Soviet administration greatly relied on the geostrategic considerations of the Russian Empire,<sup>11</sup> when, for instance, during discussions with the Allies Stalin repeatedly brought up his claims – inherited from the imperial foreign policy – in connection with Bosphorus and the Dardanelles, the ports of Darien and Port Arthur, and free access for Soviet ships to the Mediterranean Sea,<sup>12</sup> *the Soviet Union's international visions were far more ambitious than the Russian Empire's most daring schemes had ever been.* The coat of arms of the Soviet Union depicted the entire globe for a reason. Its tendencies

9 Lassa Oppenheim & Ronald Roxborough, *International Law: A Treatise*, Clark, New Jersey, 2005, pp. 231-234.

10 See e.g. at [www.americaslibrary.gov/aa/monroe/aa\\_monroe\\_doctrine\\_2.html](http://www.americaslibrary.gov/aa/monroe/aa_monroe_doctrine_2.html).

11 Arthur H. Dean, 'Soviet Economic Penetration', *The Business Lawyer*, Vol. 14, Issue 1, 1958, p. 73.

12 Henry Kissinger, *Diplomacy*, Simon & Schuster, New York, 1994, p. 399.

toward world revolution fired by the communist ideology meant that every country with a non-communist regime was effectively seen as a potential adversary, and generated ambitions of a scale that the Soviet Union could not meet in an economic sense and eventually not even in military terms. In the beginning, the policy achieved considerable success, however. Even so, Kissinger underlines that *Stalin immediately recognized the enormous potential military advantage of the US guaranteed by the possession of nuclear weapons, although he did not openly admit it.*<sup>13</sup> The forced Sovietization of the Eastern and Central European states had no other purpose than to equip Stalin with the strong trump cards needed in the bargaining process where the US had a military advantage and as a result of which, Kissinger believed, the Soviet Union would soon have to sacrifice Eastern and Central Europe to be able to preserve the Soviet Union's social structure and the Soviet State itself, under its post-1945 conditions. If Kissinger was right, the US missed a great opportunity when it failed to exploit its monopoly on nuclear weapons and coerce the Soviet Union into negotiations, since this was interpreted by the Soviet Union as a sign of international passivity on the part of the US. In the meantime, the agents of the US became engaged in some serious paperwork in connection with the internal crisis in Greece,<sup>14</sup> and soon the Korean War broke out.

The situation in Greece and Korea triggered the necessary response from the US. President Harry S. Truman set forth a policy of containment.<sup>15</sup> President Truman established that *the US would provide political, military, economic assistance to all democratic nations under threat from external or internal authoritarian forces.* The *Truman doctrine* effectively reoriented US foreign policy, away from its usual stance of withdrawal from regional conflicts not directly involving the US (as it followed from the Monroe doctrine), to one of possible intervention in far-away conflicts. In line with the Truman doctrine, the US mobilized substantial resources for both Greece and Korea: financial aid in the first case, and substantial military forces in the second in an effort to contain Soviet communist expansion around the world. According to Truman, the US could no longer stand by and allow the forcible expansion of Soviet totalitarianism into free, independent nations, because US national security depended upon more than just the physical security of US territory. Rather, in a sharp break with its traditional avoidance of extensive foreign commitments beyond the Western Hemisphere during peacetime, the Truman doctrine committed the US to actively offering assistance to preserve the political integrity of democratic nations when such an offer was deemed to be in the best interest of the US. On the other hand, by adopting the Truman doctrine, the US formally admitted that the states on which the Soviet Union had imposed its rule by military force during World War II

13 Id. p. 420.

14 During the Greek Civil War and War of Independence of 1942-1949, the Greek People's Liberation Army (ELÁS), supported by the Soviet Union, attempted to occupy the territory of the country by military force. The Greek government finally defeated the communist army with the help of Great Britain.

15 John Lewis Gaddis, 'Was the Truman Doctrine a Real Turning Point?', *Foreign Affairs*, Vol. 52, Issue 2, 1974, pp. 386-402.

belonged to the Soviet sphere of influence. While there is no doubt that the *de facto* division of the world into spheres of influence had become clear to the world leaders participating in the Tehran, Yalta and Potsdam conferences, no legal documents to that effect had been drawn up.

The moral dilemma described above was recognized by President Eisenhower, as groups of Eastern European people living in exile in the US gave unequivocal signals to the President and his administration in the remote hope that with the help of the leading power of the world, they might one day return to their countries, as to those among the free nations and the community of democratic states. Succumbing to this political pressure and moral necessity, upon Secretary of State John Foster Dulles' advice *Eisenhower launched Operation Rollback, i.e. a policy of forcing retreat*. The policy of roll back was given due publicity by both the Voice of America and by Radio Free Europe,<sup>16</sup> which filled the nations of Eastern and Central Europe, including Hungary, with, unfortunately, unfounded hope.

The notion of "rollback" gained wider traction when the Truman administration approved a document known as NSC-68, just after the outbreak of the Korean War in 1950. NSC-68 had set rollback as an objective, but it failed to specify how to achieve that goal. In the Korean War, the US and the UN officially endorsed a policy of rollback – the destruction of the communist North Korean government – and sent UN forces across the 38th parallel. In the end, the rollback strategy caused China to intervene, and US forces were pushed back to the 38th parallel.

Following the 1952 presidential election, President Eisenhower adopted containment instead of rollback in October 1952 through National Security Council document NSC 162/2, effectively abandoning rollback efforts in Europe. In 1956, Eisenhower decided not to intervene during the Hungarian Uprising of 1956.<sup>17</sup> The Suez Crisis, which unfolded simultaneously, played an important role in hampering the US response to the crisis in Hungary. As Vice President Nixon later explained:

“We couldn't, on one hand, complain about the Soviets intervening in Hungary and, on the other hand, approve the British and the French picking that particular time to intervene against [Gamal Abdel] Nasser.”<sup>18</sup>

In 1956, President Eisenhower unequivocally returned to the Truman doctrine of respecting the spheres of influence. President Eisenhower addressed a message to

16 Peter Grose, *Operation Rollback: America's Secret War Behind the Iron Curtain*, New York, 2000, p. 164.

17 About the serious crimes committed during and after the 1956 uprising, see e.g. Réka Varga, 'A nemzetközi jog által büntetni rendelt cselekmények magyarországi alkalmazása (a Biszku-ügy margójára)', *Iustum Aequum Salutare*, Vol. 7, Issue 4, 2011, pp. 19-24. About the topic of war crimes and the application of international humanitarian law, see e.g. Réka Varga, 'Háborús bűncselekményekkel kapcsolatos eljárások nemzeti bíróságok előtt', in Eszter Kirs (ed.), *Egységesezés és széttagolódás a nemzetközi büntetőjogban*, Bóbor, Miskolc, 2009, pp. 91-111.

18 Interview with Richard Nixon concerning J.F. Dulles, NS Archive, Record No. 65 106.

Nikita Sergeyeovich Khrushchev, First Secretary of the Communist Party of the Soviet Union, in which he promised the Soviet Union to refrain from inviting Hungary to the Western military alliance, and that the US did not intend to develop close political ties with Hungary. It was all interpreted by Khrushchev and the Soviet leadership as a green light to Soviet intervention in Hungary. Khrushchev invoked the international obligation of the Soviet Union as justification for the Soviet intervention in Hungary, *i.e.* a principle requiring the leading power of the communist world to provide assistance to a sister country where workers, laboring peasants or communists were being hanged by counter-revolutionaries.

*The Soviet Union did not invoke any formal ideology of international law or any doctrine of international relations in connection with the intervention in 1956.* The reason may be that the Soviet Union contended that it had made its position clear whereby it expected every state to respect the spheres of influence established by the power balance and *status quo* developed at the end of World War II. A decade later, Professor Grigory Tunkin, the best-known scholar of international law in the Soviet Union, wrote in connection with the Soviet intervention in Hungary that a socialist intervention was an obligation to be fulfilled by the Soviet Union and accepted by international law in cases where socialist achievements, or the sovereignty or independence of socialist states had to be defended against an imperialist attack.<sup>19</sup>

The Soviet Union expected the world to fully respect its sphere of influence. Khrushchev was the one to announce the policy of “*peaceful coexistence*”, in the spirit of which the Soviet leadership envisioned a political and economic competition in place of a military conflict between the two opposing camps.<sup>20</sup> During the period of “*peaceful coexistence*” the Soviet Union did not stop adhering to the principle that anywhere around the world, it would give support to forces fighting for liberation from oppression if they were fighting for the true cause, but did not have the power to lead their cause to victory, and therefore needed international support. Encouraged by the successes of its international policy, the Soviet Union embarked on a new mission of territorial expansion, which reached the Americas following the revolution in Cuba. At this point the Soviet expansion crossed the forbidden demarcation line set by the Monroe doctrine, with the consequence that the presidents of the US regardless of party affiliation, took unanimous action against further gains by the Soviet Union in the Americas.

It is worth noting, that it was after the failed landing of Cuban exiles in the Bay of Pigs in 1961 that President Kennedy declared that the foremost national interest of the US was to prevent the intrusion of outside communist forces in the Americas.<sup>21</sup> Barely four years later, President Johnson stated in connection

19 Grigory Tunkin, *Theory of International Law*, Harvard University Press, Cambridge MA, 1974, pp. 435-436.

20 Adam Bromke, ‘Ideology and National Interest in Soviet Foreign Policy’, *International Journal*, Vol. 22, Issue 4, 1967, p. 556.

21 *Public Papers of the Presidents of the United States: John F. Kennedy*, 1961, pp. 304-306.

with the US intervention in Dominica that the American action was unavoidable because some treacherous individuals had contrived to topple the lawful government of the Dominican Republic, and place the country under Soviet influence.<sup>22</sup>

The brutal crushing of the Prague Spring by Soviet troops was an enormous blow to the international reputation of the Soviet Union. For this reason, the Soviet Union felt the time had come to express its theoretical standpoint at an ideological level with regard to the international position of socialist countries and their margin for deviation. The detailed specification of the doctrine was made public in Sergei Kovalov's article titled '*Sovereignty and the International Duties of Socialist Countries*' dated 26 September 1968.<sup>23</sup> The ideas detailed in the article were adopted as the basic principles of the so-called *Brezhnev doctrine*, which was presented by First Secretary Leonid Brezhnev in his speech addressed to a socialist audience at the Fifth Congress of the Polish United Workers' Party on 13 November 1968.<sup>24</sup> The Brezhnev doctrine was also presented by Soviet Minister of Foreign Affairs Andrei Gromyko in his speech to the UN Assembly on 3 October 1968. According to the doctrine, while *socialist countries should be free to determine their path, "none of their decisions should damage either socialism in their country or the fundamental interests of other socialist countries."*<sup>25</sup>

In practice, the Brezhnev doctrine meant that only limited independence of the satellite states' communist parties was allowed, and that none would be allowed to compromise the cohesiveness of the Eastern Bloc in any way. That is, no country could leave the Warsaw Pact or disturb the ruling communist party's monopoly on power. Implicit in this doctrine was that the leadership of the Soviet Union, which reserved for itself the power to define 'socialism' and 'capitalism'. Following the announcement of the doctrine, numerous international treaties were signed between the Soviet Union and its satellite states to reassert these points and to further ensure inter-state cooperation. The Brezhnev doctrine stayed in effect until it was ended with the Soviet reaction to the Polish crisis of 1980-1981. In 1985 the Brezhnev doctrine was summarized by President Reagan as follows: "*once a country has fallen into communist darkness, it can never again be allowed to see the light of freedom.*"<sup>26</sup>

The US intended to rely on peaceful means, agreements and a policy of *détente* in its efforts to halt the rather aggressive international expansion of the Soviet regime, President Nixon being the most important representative of this

22 52 Dept. St. Bull. 822 (1965).

23 The article was published in Pravda, the leading daily newspaper in the Soviet Union, which was also the official paper of Central Committee of the Communist Party of the Soviet Union until 1991. See Sergei Kovalov, 'Document 31 – Sovereignty and the International Duties of Socialist Countries', *Chronique de politique étrangère*, Vol. 23, Issue 1-2, 1968, pp. 247-250.

24 See the speech at <https://loveman.sdsu.edu/docs/1968BrezhnevDoctrine.pdf>.

25 See Stephen G. Glazer, 'The Brezhnev Doctrine', *The International Lawyer*, Vol. 5, Issue 1, 1971, pp. 169-179.

26 *Conservative Political Action Conference's Twelfth Annual Dinner*, 20 Weekly Comp. Pres. Doc. 243 (8 March 1985).



policy.<sup>27</sup> The strategy of *détente* was based on the premise that the Soviet Union followed an expansionist policy because it felt threatened, and if it had assurances that the US and its allies had no ill intentions towards it, it would refrain from further aggressive expansionist policies. *Détente* achieved some undeniable success: it led to a number of agreements between Nixon and Brezhnev (including the Partial Test Ban Treaty, the Nuclear Non-Proliferation Treaty, and the Anti-Ballistic Missile Treaty), and later led to the Helsinki Process and the Helsinki Accords (1975). Nevertheless, it was another reinforcement of the recognition of the untouchable nature of the communist sphere of interest forcibly achieved at the end of World War II by the Soviet Union.

The Western world's expectations of the Helsinki Process and *détente* proved to be vain hopes. Following the invasion of Afghanistan in 1979, the Soviet Union continued to advance in Asia. It contributed to the overthrow of the Shah of Iran, and made preparations to undermine political stability in Saudi Arabia. These steps were clearly taken with the aim of further weakening the strategic power of the US in the region. The Soviet political and military advancement reached such a force, that President Carter was obliged to make an emphatic response declaring on 23 January 1980 that any attempt by an outside force to gain control of the Persian Gulf region would be regarded as an assault on the vital interests of the US, and would be repelled by any means necessary, including military force.<sup>28</sup> This emphatic response is referred to in the international political life as the *Carter doctrine*.

#### 4. A Turn in the Reagan Era

Under the Presidency of Ronald Reagan, the US attempted to refashion the international legal system to loosen the restrictions that international law and international institutions placed on unilateral state action. The Reagan administration avoided the restrictions of international legal rules in three ways: (i) by 'bending' traditional rules or applying them to unprecedented situations; (ii) by interpreting treaty obligations; and (iii) occasionally, by advocating for new rules of international law.<sup>29</sup>

When he became President, Ronald Reagan added a clause to the Carter doctrine proclaiming that "We cannot permit Saudi Arabia to become Iran." This simple statement is known as the *Reagan corollary* to the Carter doctrine.<sup>30</sup> The

27 Josef Korbel, 'Detente and World Order', *Denver Journal of International Law and Policy*, Vol. 6, Issue 1, 1976, pp. 13-15.

28 *The State of the Union*, 16 Weekly Comp. Pres. Doc. 197 (23 January 1980). As President Carter underlined, "Let our position be absolutely clear: an attempt by any outside force to gain control of the Persian Gulf region will be regarded as an assault on the vital interests of the United States of America, and such an assault will be repelled by any means necessary, including military force."

29 Malawer 1988, p. 107.

30 George K. Walker, *State Practice Following World War II, 1945-1990*, US Naval War College, Vol. 65, p. 154, at <https://digital-commons.usnwc.edu/cgi/viewcontent.cgi?article=1738&context=ils>.

Reagan corollary emphasized that the US would intervene to protect Saudi Arabia, whose security was threatened after the outbreak of the Iran-Iraq war. The reasoning of the Reagan corollary is significantly different from the view of the Carter doctrine. While the Carter doctrine pledged to defend the friendly governments of the Persian Gulf region against attacks by hostile outside forces, the Reagan corollary meant that the US was prepared to protect allied or friendly governments against hostile groups from within their states.

It is highly instructive and interesting to study the reception of the Reagan corollary by the community of international lawyers and politicians, including attempts to prove that the corollary seriously violated the rules of public international law. According to Reisman, the enormous nuclear power controlled by the US and the Soviet Union forced the two superpowers to come to a mutual agreement and to the establishment a system of some sort of minimum global order, which would reduce the chances of a conflict between them.<sup>31</sup> Reisman called these spheres of influence *critical defense zones*. Reisman believed that the international order may rely on the circumstance that both the US and the Soviet Union needed a zone of buffer states that, for fundamental reasons, remain loyal to one or the other superpower. Neither the US nor the Soviet Union had the right to interfere with the development of social order in their allied buffer states, but they may expect the states of the defense zones to align themselves with their respective superpowers in questions of foreign policy. Based on these arguments, Reisman concluded that the US had the lawful right to issue the Carter doctrine, since the state heading an alliance has a right to defend its allies against outside hostile intervention. He found the Reagan corollary dangerous, however, because in his opinion the states belonging to a defense zone only have the obligation to respect the authority and guidance of their leading superpower in matters of outside threats, but the superpowers cannot interfere with internal processes.<sup>32</sup>

Reagan's extension of the Carter doctrine may appear to be a small step, but it was a major departure from previous practices in US foreign policy and the beginning of a path that would lead to the collapse of the Soviet Union and the fall of communism. It is particularly interesting that while the Soviet international law community served the expansive policy of the Soviet Union and communist ideas in every respect, scholars of international law in the West urged their political leaders to maintain the *status quo* that emerged after World War II, even when there could have been room in international law for retaliation for the breaches of international law committed by the Soviet Union and thus, for the restoration of the international legal order. The Reisman argument – which was shared by a fair proportion of international law experts – rests on the premise that the tacit agreement between the great powers on the spheres of influence after World War II created an obligation in terms of international law that had to be respected by both the US and the Soviet Union. Although the 1969 VCLT only deals with written treaties, the rules it defines can be *mutatis mutandis* extended,

31 W. Michael Reisman, 'Editorial Comments: Critical Defense Zones and International Law: The Reagan Codicil', *American Journal of International Law*, Vol. 76, Issue 3, 1982, p. 589.

32 *Id.* p. 591.

at least in the ambit of customary international law, to cases where the international binding force of unwritten agreements and the legal consequences of their violation are taken into account.<sup>33</sup>

Another basic document of international law is the UN International Law Commission's Draft Articles on the responsibility of states for internationally wrongful acts,<sup>34</sup> which codifies the legal consequences of behaviors in breach of international law. Article 22 states that

“The wrongfulness of an act of a State not in conformity with an international obligation towards another State is precluded if and to the extent that the act constitutes a countermeasure taken against the latter State in accordance with chapter II of Part Three.”<sup>35</sup>

As it was underlined by the Reagan administration, the US had a right to take such countermeasures.<sup>36</sup> The truth of this statement must be recognized by all those who took great pains to illustrate the importance of the US and the Soviet Union being surrounded by allied states loyal to them in the interest of maintaining international peace and security.

The constant redividing of the spheres of interest was a necessary consequence of the nature of the Cold War, but the unbroken Soviet ambition to re-write the spheres constituted the highest possible security risk for the world. It suffices to mention Cuba here. In this connection it is easy to accept that the Soviet acts in breach of international law were among the most serious wrongful acts after World War II.

Ronald Reagan's Secretary of State George Shultz made sure to clarify in his speeches the underlying principle of Reagan's foreign policy. Ronald Reagan recognized that Khrushchev's and Brezhnev's doctrines rested on the assumption that everything that belonged to the Soviet Union's sphere of influence was untouchable, while everything that was under the US sphere of influence was meant to be up for grabs.<sup>37</sup> President Reagan decided to abandon the old policy and pay the Soviet Union back with its own currency.<sup>38</sup> As was discussed above, he had every reason for that even in an international law sense. In his speech in October 1984, Reagan spoke of the fight between freedom and totalitarian dictatorship, which he correctly presented as a fight between good and evil. He

33 Xiaocheng Qin, 'Oral International Agreement and China's Relevant Practice', *Chinese Journal of International Law*, Vol. 4, Issue 2, 2005, p. 468.

34 Official records of the General Assembly, Fifty-sixth Session, Supplement No 10 and corrigendum (A/56/10 and Corr 1).

35 A/56/10 Report of the International Law Commission on the work of its fifty-third session, *Yearbook of the International Law Commission*, 2001, Vol. II, Part Two, pp. 75-76.

36 Francis Anthony Boyle, *World Politics and International Law*, Duke University Press, 1985, p. 268.

37 George Shultz's ideas were cited by Michael W. Reisman, 'The Brezhnev Doctrine and the Reagan Doctrine: Apples and Oranges', *American Society of International Law Proceedings*, Vol. 81, 1978, p. 565.

38 W. Michael Reisman, 'Old Wine in New Bottles: The Brezhnev Doctrines in Contemporary International Law and in Practice', *Yale Journal of International Law*, Vol. 13, Issue 1, 1988, p. 197.

stressed that the free world cannot be content with just attempting to stop the Soviet threat. In 1985, Ronald Reagan declared that he did not recognize either the legitimacy or the finality of the Soviet occupation of Eastern and Central Europe. He also highlighted the importance of supporting forces fighting for freedom and democracy in any part of the world, which became known to the public as the Reagan doctrine.<sup>39</sup> Reagan did not simply mean this as a rhetorical statement: in September 1985, for instance, he signed National Security Decision Directive 166 ordering the continued exclusion of Soviet forces from Southeast Asia, now, by any available means.

Reagan did no more than turn the Soviet forces' own weapon against them, and promised to reciprocate by displaying the same international behavior that the Soviet Union had been exercising around the world. American experts of international law were engaged in a debate of several years over whether the Reagan doctrine and the Brezhnev doctrine could be equated. It was not until the first international successes of the Reagan doctrine that the American Society of International Law held a debate with the title "The Brezhnev Doctrine and the Reagan Doctrine: Apples and Oranges?"<sup>40</sup> During the debate, some of the participants defended the Reagan doctrine. The consistent policy of the Reagan administration supporting forces fighting against communist influence was subject to particularly strong attacks.

Since President Carter strove to create an image in the international arena as the leader of an US administration committed to human rights, a large share of his international actions were also aimed at the protection and reinforcement of human rights.<sup>41</sup> While President Carter was undoubtedly driven by good intentions, even his advocates noted that his human rights defense policy was noticeably incomplete, inconsistent and in many cases, selective.<sup>42</sup> With regard to human rights, President Ronald Reagan stressed that the most dangerous factors globally were activities of the subversive forces fighting to spread communism. These communist forces were simply labeled terrorists by the Reagan administration. The international fight against terrorism, which was later associated with the era of President George W. Bush, was a term used by the Reagan administration on a number of occasions referring to communist cells and forceful subversive acts carried out by groups in other countries.

President Reagan's activities in connection with the international support against communist subversive groups were heavily criticized by some of the US experts in international law, such as Francis A. Boyle.<sup>43</sup> The government of the US assisted the Nicaraguan *Contras* in their fight against the Sandinista government,

39 William D. Rogers *et al.*, 'The Brezhnev Doctrine and the Reagan Doctrine: Apples and Oranges: Remarks', *American Society of International Law Proceedings*, Vol. 81, 1987, pp. 561-570.

40 The debate was held on 11 April 1987, chaired by William D. Rogers.

41 John Murphy, 'Human Rights in United States Foreign Policy', *Houston Journal of International Law*, Vol. 4, Issue 1, 1981, pp. 133-136.

42 Robert A. Friedlander, 'Confusing Victims and Victimizers: Nicaragua and the Reinterpretation of International Law', *Denver Journal of International Law and Policy*, Vol. 14, Issue 1, 1985, p. 91.

43 Francis A. Boyle, 'Preserving the Rule of Law in the War against International Terrorism', *Whitaker Law Review*, Vol. 8, Issue 4, 1986, p. 735.

which led to a court case at the ICJ upon the initiative of the Nicaraguan government.<sup>44</sup> The ICJ's judgment was that the US intervention was unlawful. During the proceedings, however, the ICJ could not duly appraise the fact that the behavior of the US was very closely related to the global threat to security posed by the unstoppable expansion of the Soviet Union in the world.

President Reagan realized that the opportunities for US military development led to a new phase of the Cold War, a phase which was comparable to the unilateral possession of nuclear weapons in the mid-forties. The position of the US in the forties had offered significant, but regrettably unexploited opportunities against the Soviet Union. At the beginning of the Reagan Era, the vast majority of experts believed the Soviet Union to be a strong and unassailable state, but Reagan realized that the Soviet Union was a weak country struggling with several contradictions and could be forced to its knees given sufficiently decisive US actions. In terms of military policy, this implied two major elements. (i) One was the installation of medium-range missiles in Europe, which led to the military strategic result that the European allies were assured that these nuclear weapons would be deployed in case of a conflict between Western Europe and the Soviet Union. Western Europe had previously felt increasingly threatened as it had never been certain whether the US would be prepared to get involved in a nuclear war with the Soviet Union just to deflect an attack on Western Europe. The medium-range missiles, however, carried the risk of a nuclear war, should Western Europe suffer a Soviet attack, and this local, but nevertheless nuclear conflict between Western Europe and the Soviet forces would be followed by the deployment of untouched American nuclear forces against the Soviet Union. This risk was clearly too high to be ignored, and thus ensured that the Soviet Union would not risk a serious conflict in connection with the states of Western Europe once the missiles were based in Europe. (ii) The second idea, the Strategic Defence Initiative (SDI) was of even higher significance. The plan was to build a defense system around the US that would prevent any nuclear attack initiated from another country against the US.<sup>45</sup>

The relative security of the Cold War is essentially rooted in the notion of interdependence, *i.e.* the two-way dependence between the Soviet Union and the US, which rested on the principle of Mutually Assured Destruction (MAD).<sup>46</sup> If the US had succeeded in safeguarding itself against destruction, this would have secured a strategic advantage whereby it could have destroyed the Soviet Union without endangering its own existence. It is typical once again, that there were American experts in international law who emphatically argued that such

44 ICJ, *Military and Paramilitary Activities in and against Nicaragua*.

45 David Hodgkinson, 'The Reinterpretation of the ABM Treaty: Policy Versus the Law', *University of Western Australia Law Review*, Vol. 21, Issue 2, 1991, pp. 259-264.

46 Mark A. Clark, 'Directed-Energy Weapons on the High Frontier', *Denver Journal of International Law and Policy*, Vol. 13, Issue 1, 1983, p. 117.

defensive military tools were contradictory to the international agreement on outer space.<sup>47</sup>

The general public and some political scientists found President Reagan to be a great communicator,<sup>48</sup> who used his exceptional acting skills to represent the strategic aims of the US in the international arena. The Strategic Defence Initiative, the so-called Star Wars plan, could only yield success in a very distant future given the enormous costs and the unprecedented challenge of technological development it called for. Ronald Reagan, however, was able to broadcast this threat to the Soviet forces with such credibility, that they perceived the implementation of the American plans for the SDI as an acute and immediate threat, which had a significant effect on the decisions of the Soviet leadership.

## 5. Conclusion

It was Ronald Reagan's tough policy that left no choice for the Soviet Union but to elect a leader like Gorbachev, who was prepared for compromises, and Reagan's well-timed change of direction and his ability to reach an agreement allowed him to prompt Gorbachev in order to keep his power and to launch reforms. This process gradually led to the peaceful dissolution of the Soviet regime and to the emergence of a new world, which was no longer characterized by a bipolar world order. For a long time, the US became the sole superpower of the world. During the Reagan Era, the US administration undeniably relied on a purposive interpretation of public international law to realize the goals of the US. Ronald Reagan firmly believed in the US being an exceptional nation, but he also believed in the moral obligation that this uniqueness carried with it. These beliefs gave him the power to rectify the mistakes of the post-war period and force the Soviet Union – whose aggressive foreign policy after World War II was at all times the greatest threat to international peace and security – to its knees with the help of assertive US policies. In the process of creating a new and more democratic world, where international law may apply more effectively, President Reagan's approach played a crucial role.

47 Treaty on the principles regulating the activities of states with regard to the exploration and use of outer space including the Moon and other celestial bodies. Allen Sultan, 'The International Rule of Law under the Reagan Administration', *University of Dayton Law Review*, Vol. 10, 1984, pp. 250-251.

48 Robert E. Denton Jr., *The primetime presidency of Ronald Reagan: the era of the television presidency*, Praeger Publishers, New York, 1988, pp. 1-15.