The Destiny of a Great Power: Russian Messianism and the Quest for a Balance of Power in International Law and Relations

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Introduction

In an acrimonious phone call a day before the House of Commons voted against British involvement in military intervention in Syria, Prime Minister David Cameron was reported to have accused Ed Miliband, the Labour Party leader, of ‘letting down America’ and ‘siding with [Sergei] Lavrov’, the Russian foreign minister (Mason, 2013). The Commons’ unprecedented vote against military intervention in Syria was striking in view of the fact that the United Kingdom has been involved in almost every single US military intervention since the end of the Cold War, most recently in Libya, where Russian interests were also affected. On this occasion, however, Russia put its foot down and used its veto in the Security Council (along with China) to prevent there being a legal basis for armed intervention on the territory of the Syrian Arab Republic. Russia and China’s repeated vetoes prompted Prime Minister Cameron to seek parliamentary support in order to circumvent the United Nations (UN) Security Council ‘to alleviate the scale of the overwhelming humanitarian catastrophe in Syria by deterring and disrupting the further use of chemical weapons by the Syrian regime’. This in turn

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prompted President Obama to seek authorization from the US Congress for military intervention in Syria. Following the Congress’ indication that they would not support such action, the US abandoned the military option and opted to disarm Syria’s chemical weapons after reaching a modus vivendi with Russia.\(^5\) Evidently, despite the end of the Cold War, there remains a deep ideological chasm between the United States, the United Kingdom, and Russia in their respective ‘spheres of influence’. To what extent can Russia’s stance in supporting the Syrian regime in that country’s 3-year civil war be attributed to Russian history and its approach to questions concerning Russian sovereignty, the balance of power and war and peace? Reading Bowring’s *Law, Rights and Ideology in Russia: Landmarks in the Destiny of a Great Power* provides some fascinating insights.

Bill Bowring, Professor of Law at Birkbeck College, University of London, UK, addressed human rights and the use of force in international law, in his previous book *The Degradation of the International Legal Order*, which was published in 2008. In that book, Bowring (2008: 39–59) criticized the March 2003 Anglo-American invasion of Iraq as the culmination of a series of serious violations of international law by the United States and United Kingdom, which he believes began with the US bombings of Libya in 1986, and the later attacks on Iraq and Serbia in the 1990s. As Bowring (2008: 46) observes, these systematic violations of international law began in the mid-1980s when ‘[t]he USSR itself was about to collapse in ignominy, its ideological foundations having rotted away’. In contrast to *Degradation*, in *Landmarks*, Bowring seeks to provide readers with an understanding of Russia’s history and what makes Russia and Russians still think they are a great power. Taking stock of Russia’s history and the way in which that history has shaped Russia’s sovereignty helps us understand the way in which it approaches problems like those posed by Syria’s civil war.

Bowring, who speaks fluent Russian and has spent decades working on human rights issues in Russia, thematically traces the legal history of Russia as a great power; the events that led it to become such a power and the way in which Russia has dealt with issues, from legal reform to human rights, self-determination, autonomy, the collapse of the *Union of Soviet Socialist Republics* (USSR), and Russia’s sovereignty, at key moments. Throughout *Landmarks*, Bowring usefully brings to light Russian debates on a range of topical issues in legal and political journals, edited collections and conferences, which have not been previously highlighted or translated into the English language. Although Bowring provides a lot of valuable material that he has painstakingly translated for the first time into English, one minor criticism is that he does not always use the material he translates from other authors effectively. For instance, Bowring occasionally confuses by citing long ill-explained passages, which can leave the reader confused if they have not followed his train of thought; otherwise this is an excellent and readable book.

**Bowring’s Biography and Chronology**

Bowring explains that his interest in Russia began through his mother, ‘a passionate Russophile’ (2008: 208). One of her best friends served with White Russian officers fighting with the Kuomintang. Bowring’s mother attended lectures given by Lenin’s chief opponent Aleksandr Kerensky. However, for the young Bowring, Marx, Engels,
Lenin and Trotsky were in vogue when he was a student at university in the late 1960s and early 1970s (p. 209). After studying philosophy at university, Bowring, realizing that finding work as a philosopher being ‘hard to come by’, decided to embark on a career in law. Thus began his journey to the bar, and since 1975 he has been a practising barrister. However, his interest in philosophy did not wane, and so he decided to begin an academic career, whilst finding time to participate in local politics. He was elected twice as councillor for the London borough of Lambeth for the Labour Party. As part of his human rights work, Bowring regularly visits Russia. In 2002, he founded the European Human Rights Advocacy Centre, which has taken cases before the European Court of Human Rights (ECHR) in Strasbourg on behalf of victims from Russia’s Chechen wars and other human rights violations. Bowring has also taught at many Russian universities, including St Petersburg and Moscow State University. Bowring’s advocacy of human rights in Russia has, however, occasionally inflamed the Russian authorities. He was deported from Russia in 2005 when he was on his way to observe the trial of Stas Dmitrievsky and he was arrested in 2007 while teaching senior judges in Astrakhan (p. 210).

Bowring’s years studying the writings of Marx and Lenin at universities in Britain, and his interest in and experience as a lawyer working in Russia, is reflected in the topics that he addresses in this book. The book is not merely a legal history, however, but a compendium of political and legal ideas chronologically and thematically addressed over 10 chapters. These include the impact of the Scottish enlightenment in the Russian Empire, particularly regarding legal education; the reforms of the 1850s–1860s in which ‘trial by jury was indeed brought to Russia from England’ (p. 36); the early phase of the Soviet Union and the career of Yevgeniy Pashukanis whose critique of international law has attracted much academic interest; Soviet international law and self-determination, of which Bowring has written about extensively (see Bowring, 2008: 9; Marks, 2008: 133); as well as the collapse of the USSR, and Russian autonomy, a particular expertise of his (see Bowring, 2002: 229; and Bowring in Nimni, 2005: 162 and Cordell and Smith, 2007: 417). Bowring also covers human rights, the death penalty and the idea of ‘sovereign democracy’, which has been gaining ground in circles close to President Vladimir Putin lately and which seems to have influenced the writings of Valeriy Zorkin, the Chairman of the Russian Constitutional Court. The Russian Constitutional Court has refused to implement decisions of the ECHR that infringe Russia’s national sovereignty (2008: 194–195).

The Russian Concept of Messianism

As Bowring stresses throughout this book, Russia still thinks of itself as a great power, a belief that is important to the Russian concept of messianism, ‘the idea that Russia has a special or sacred task, of saving the world’ (2008: 2). Dostoevsky probably best summed up messianism in his ‘Pushkin speech’ of June 1880, which Bowring quotes approvingly, and which translates as follows:

Yes, the Russian’s destiny is incontestably pan-European and universal. To become a true Russian, to become completely Russian, perhaps means only . . . to become a brother to all people, a universal person if you like. Oh, all this Slavophilism and Westernism of ours is a
great misunderstanding with us, although historically inevitable. For a true Russian, Europe
and the fate of the whole great Aryan race are as dear as even Russia herself, her native land,
because her fate is universality, acquired not by the sword but by the force of brotherhood
and our brotherly striving for the reunification of people . . . (Bowring, 2013: 18).

What is revealing about the passage just quoted is that this idea of messianism
preceded communism; and communism, in addition to abolishing private property, also
strove to reunify all the peoples of the Soviet Union and later to unify the Third World
against the divisive forces of capitalism with its attendant ‘evils’: racism and material-
ism. As Bowring explains, the Russian idea of ‘Eurasianism’ is also linked to messianism
that strives for the unity of ‘the traditional religions of Russia, Orthodoxy, Islam, Juda-
ism and Buddhism, in a common opposition to Western materialism and consumerism’
(Bowring, 2013: 18).

This might explain why, as Bowring explains in Chapter 7, one policy that Lenin and
the Communist Party decided to maintain in the Soviet Union was the nationalities
policy through non-territorial autonomy for each ethnic group (2008: 134). Bowring
takes Terry Martin to task for his claim that the Bolsheviks had no coherent nationalities
policy when they seized power in October 1917 (Martin, 2001: 2). Through an analysis
of Lenin’s early writings, Bowring shows this proposition to be false (p. 137). As Bowr-
ing explains most of the regional autonomies existed before the 12th Party Congress of
the Soviets in April 1923 convened a special conference on nationalities and have con-
tinued in existence until the present day (pp. 137–138). This is why the word ‘autonomy’
resonates strongly in Russia (p. 139). This can be seen in the decision of the Constitu-
tional Court of the Russian Federation which in 2004 rejected the application of the
Orthodox Party of Russia to be recognized as a political party on the basis that ‘the con-
stitutional principle of a democratic and secular state in relation to the concrete historical
realities in the Russian Federation as a multi-ethnic and multi-religious country, does not
permit the establishment of political parties based on national or religious affiliation’
(Bowring 2013: 120). This judgment was a reflection of Russia’s long history of recogn-
izing the rights of religions and national minorities to have regional autonomy that
obviated the need for them to have separate and divisive political parties. It was also
a natural historical trajectory for Russia to make. It encapsulated the Russian ideas of
 messianism and Eurasianism, which have their roots in Russia’s Tsarist past, and which
lasted through the Communist era to the present.

In view of Russia’s history and its geography as a vast territorially contiguous empire
that straddles two continents and several time zones with a multitude of ethnicities and
national groups, I would argue that it approaches political conflicts – like the conflict in
Syria – from a very different political vantage point to say Britain or the United States
(see tables 6.5 and 6.6 in Bowring, 2013: 118–119, showing the ethnic populations of
Russia by description). Because Russia’s political system does not allow the establish-
ment of political parties based on national or religious affiliation, it is perhaps more
willing to accept arguments that maintaining the political unity and territorial integrity
of a multi-ethnic and multi-religious country takes precedence over the claims of those who seek to break up that political unity and territorial integrity. This argument applies to the conflict in Syria today, where Britain, France, and the United States have thrown in their lot with the Gulf Monarchies to support the Syrian opposition, which has yet to develop a political platform for Syria that would preserve its ancient heritage as a unified Arab country with a mixed ethnic and religious population.

**Human Rights and Self-Determination**

Russia’s image of itself having a sacred task of saving the world has also been reflected through its particular approach to international politics. This has often resulted in ideological clashes with the other great powers on a range of issues – the conflict in Syria being only the most recent example. For instance, Russia’s approach to human rights and self-determination has long differed to that of the Western states and reflects not only Russia’s differing national interests but also its ideological outlook. On self-determination, this became evident as soon as the USSR established itself with Stalin’s support for the Chinese Communist Party and later, after the schism, with the USSR’s support for National Liberation Movements (Andrew, 2006).

One of the major consequences of the Marxist–Leninist approach to national self-determination is that when it was superimposed onto the international plane during decolonization, it was adapted to promote majority rule in the colonies, which was to be achieved by all necessary means, including armed struggle. This meant that during the transition of political power from the colonial power to the colony, political power was to be vested in ‘the toiling masses’, the ‘whole people’, rather than in the minority ruling elite, which was the model preferred by the liberal democracies. Accordingly, the USSR sought to maintain the territorial integrity of the colonial unit, whereas the liberal democracies often preferred partition. Moreover, the Marxist–Leninist approach to self-determination extended to all nations without exception as well as to the national groups ‘which have not yet developed into nations’ (Starushenko, 1962: 51). Russia’s support for self-determination in the Third World sought to break up the old colonial empires, but it was also genuinely based on an altruistic belief that all peoples have a right of self-determination, meaning a right to a homeland. Such support was not just a question of Communist proletarian solidarity; it was also consistent with the USSR’s nationalities policy in its respective homelands.

The USSR’s approach to human rights became evident during the drafting of the Universal Declaration of Human Rights (UDHR) in 1948, which the USSR abstained from. As Bowring explains (pp. 142–143) the reason for the USSR’s abstention was not that it was opposed to human rights but that it did not think the UDHR went far enough in certain respects. Thus, the Soviet delegate complained that the UDHR did not contain measures for the material and legislative guaranteeing of the rights it enumerated; nor did it enshrine the rights of peoples to self-determination, an omission that was conspicuous by its absence since it was mentioned in the UN Charter (p. 142). This omission was due to the opposition expressed by the other colonial powers to any rule recognizing self-determination (Morsink, 1999: 96–101). As Bowring explains, ‘It was the USSR that submitted to the 15th Session of the UN General Assembly the draft of the historic
Resolution 1514 (XV) of 14 December 1960, the “Declaration on the granting of independence to colonial countries and peoples” (p. 88). The Soviet Union’s support for self-determination and its diplomatic, financial and military support for National Liberation Movements cannot solely be attributed to Soviet propaganda. As Bowring contends, this was the result of “the logic of the new international law, developed through the USSR and its allies, that a people with the right to self-determination faced with aggressive attempts to deny that right enjoyed the right of self-defence under Article 51 of the Charter” (p. 91).

But self-determination was not just a question of self-defence. It also had human rights implications. This was recognized by adoption of the UN General Assembly in 1966 of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights, which both enshrine and enumerate ‘the right of all peoples to self-determination’ in common Article 1. In any event, despite Russia’s abstention from the UDHR, Bowring points out that the USSR nonetheless ‘ratified every one of the UN human rights treaties thereafter’ (p. 143). Of course, the USSR never intended that these treaties ‘should apply within the Soviet Union, much less that there should be the possibility of interference in internal affairs’ (p. 144).

It was not until after perestroika that the USSR would recognize the compulsory jurisdiction of the International Court of Justice (ICJ) with respect to the six human rights treaties. Indeed in its final years, the USSR became so enamoured with human rights that it even acceded to the optional protocol to the ICCPR, ‘a move which put the USSR ahead of the UK and the USA’ who have yet to ratify it (p. 144). Once the Russian Federation was established, it continued this trend by acceding to the Council of Europe (CoE). This was rather ironic, since the Council was originally established as

a sort of social and ideological counterpart to the military aspects of European co-operation represented in the North Atlantic Treaty Organization ... inspired partly by interests in promotion of European unity and partly by the political desire for solidarity in the face of the ideology of Communism. (Brownlie and Goodwin-Gill, 2010: 148)

And yet Bowring explains that Russia acceded to the CoE when ‘most members of the state Duma did not understand Russia’s obligations to be obligations at all, but simply recommendations’ (p. 153). This has caused all sorts of problems for Russia’s participation in the CoE, which was further complicated by Russia’s accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) in 1998, coincidentally the same year the United Kingdom passed the Human Rights Act. This complication became readily apparent over the issue of the death penalty, which Bowring sensibly devotes a separate chapter to.

**The Death Penalty in Russia**

Russia has never ratified Protocol No. 6 to the ECHR because this would require Russia to abolish the death penalty in line with all the other member states of the CoE (p. 174). Bowring provides a fascinating history of the death penalty in Russia from Tsarist times
through Soviet times to the present, to show that Russia went through periods of history when it outlawed the death penalty (pp. 177–189). Bowring explains that the death penalty in Russia was sporadically abolished and reinstated throughout the 18th and 19th centuries and that during the reign of Catherine the Great, Russia was influenced by the Enlightenment and ‘the great work of Cesare Beccaria, On crimes and punishments’ (p. 177). This is why Beccaria could argue that the death penalty was unnecessary for the protection of society because in Russia the death penalty had been abolished and ‘this had not led to an increase in crimes’ (p. 178).

Apparently, the death penalty did not reappear in Russia’s ordinary criminal legislation until 1833, ‘although landowners could and did execute their serfs’ (p. 178). Lenin also opposed the death penalty prior to the Bolshevik Revolution expressing views similar to Marx (p. 180). However, in the conditions of intervention and civil war after 1917, Lenin argued that the death penalty was a temporary necessity for reasons of expediency, although as Bowring stresses, ‘it was his firm intention to renounce it’ after the war. Alas, Lenin died before he could do so ‘and then the real terror began’ (p. 181). Under Stalin, the death penalty was used for a range of crimes (pp. 181–182), although ‘it would seem that at Stalin’s death very few executions were taking place’ (p. 182).

In 1954, there was a ‘dramatic change’ when a decree was passed imposing the death penalty for intentional homicide under aggravating circumstances. Bowring cites van den Berg who explains that the reason for this law ‘was the closing by Beria of a number of prison camps, releasing large numbers of hardened criminals, followed by a steep rise in serious crime’ (p. 183). In 1961–1962, economic crimes could incur the death penalty, and in 1973, hijacking became a capital crime (van den Berg, 1983). In the Yeltsin period, a new Criminal Code was enacted which provided capital punishment for premeditated murder under aggravating circumstances, murder or attempted murder of a state or public official, murder or attempted murder of a law enforcement officer, and genocide (pp. 185–186).

According to official statistics, 86 Russians were executed when Russia joined the CoE in 1996, although only 16 executions had been reported to CoE officials. Bowring quotes Pristavkin who was told that had the CoE known the true figure they would never have admitted Russia as a member (p. 186). This is because when Russia acceded to the CoE it entered into an obligation to ratify within 3 years Protocol No. 6 to the ECHR, which abolishes the death penalty. Needless to say Russia had only signed this treaty, it has not ratified it. And yet, as Bowring notes, under the Vienna Convention on the Law of Treaties, ‘a state which has signed a treaty is prohibited, pending ratification, from acting in such a way as to violate the substance of the treaty it has signed’ (p. 187). The result has been stalemate: The Duma has refused on two occasions to ratify Protocol No. 6, and Russia has not executed anyone since 1999 (pp. 187–189).

In 1999, the Federal Constitutional Court stepped in to save face by holding that in order for the death penalty to be applied in Russia, the accused must have the right to a trial by jury in every part of Russia. But in 1999, jury trials existed in only 8 of 89 regions of Russia (pp. 188–189). In 2010, jury trials were introduced throughout Russia after jury trials were finally introduced in Chechnya, the last of Russia’s regions not to have such trials. Accordingly, it was expected that Russia would reintroduce the death penalty. But then the Constitutional Court intervened again, ruling that the death penalty
could not be reintroduced even after jury trials had been introduced in all the regions of Russia, because Russia had signed Protocol No. 6 to the ECHR and it is therefore obliged ‘to refrain from acts which would defeat the object and purpose of the Protocol’ (p. 191). Thus, even though Russia has not ratified Protocol No. 6, it will nonetheless refrain from executing criminals because this would be contrary to the object and purpose of the Protocol. Bowring ends on a sad note, however, observing that two of the Judges who had voted with the majority in favour of this decision and were leading human rights advocates ‘were forced to resign their positions following public criticism by them of political control of the Russia [sic] judiciary’ (pp. 191–192).

Russia’s difficult relationship with the CoE, which was an organization that was originally established as an ideological counterpart to the North Atlantic Treaty Organization to provide European unity and solidarity in the face of Communism, could only be expected. Russia acceded to the organization in the Yeltsin era (pp. 140–168), at a time when Russia was weak, and when the deputies of the Duma did not even realize what they were agreeing to. Indeed as Bowring points out, certain member states of the CoE took advantage of Russia’s weakness to demand its acceptance as a member on condition that it acceded to Protocols that many member of the CoE have yet to accede to – such as Protocol 4 to the ECHR and the charter on local self-government – which the United Kingdom, for instance, has never accepted (p. 159). And yet the Russian Constitutional Court found a way to steer Russia in a direction that avoided a legal conflict between Russia and the CoE.

**Sovereign Democracy**

Despite Bowring’s admiration for Russian culture and history, he does not shy away from criticism where he thinks it deserved. And Bowring is at his most critical in his last chapter on ‘sovereign democracy’, which Bowring tells us is the brainchild of Vladislav Yuryevich Surkov, formerly Deputy Prime Minister. Bowring notes that the debate on sovereign democracy has had ‘a direct impact on law and human rights’ in contemporary Russia (p. 194). This has disturbed Bowring, because the theory of sovereign democracy has been influenced by the writings of Carl Schmitt who has acquired notoriety as ‘the “crown jurist” of the Third Reich’ (p. 194, see also pp. 199–201). Bowring also quotes articles from another controversial character, Aleksandr Dugin, who has also influenced debates in Russia on ‘sovereign democracy’. As Bowring notes, Dugin ‘has moved from overt neo-fascism and occultism to authoring key textbooks on international relations, or geopolitics, and is now a professor at Moscow State University’ (p. 202).

Most disturbingly, Bowring has detected elements of the theory of sovereign democracy being applied in practice in the writings of Valeriy Zorkin, the Chairman of the Constitutional Court (pp. 203–204) and in the writings of influential Russian intellectuals. Bowring surmises that the arguments underpinning the notion of sovereign democracy can be detected in Russia’s rejection of the decision of the ECtHR in the *Markin* case, which ruled that Russia could not exclude servicemen in the armed forces from being entitled to parental leave, when servicewomen are entitled to such leave (p. 205).
Bowring recognizes that the decision by Russia to ignore the ECtHR is part of a wider pattern of behaviour on behalf of Russian elites to view the work of international institutions like the CoE and the ECtHR, non-governmental organizations like Amnesty International and Freedom House, and even international law, as part of a liberal agenda to weaken Russia. But one could say the same thing of those British Conservatives who believe that the European Union is a monolithic and profligate organization that has undermined British sovereignty and who have attacked the decisions of the ECtHR in the right-wing press. One could also point to the neoconservatives in the United States, who believe that ‘international law got in the way of doing the right thing’, when they advocated invading Iraq in 2003 (Burkeman and Borger, 2003). Indeed, as Bowring points out, Britain is also in conflict with the ECtHR on the issue of prisoner’s voting rights (p. 193) and the US withdrew from the compulsory jurisdiction of the ICJ (along with Israel) in 1986 after it handed down its judgment in the Nicaragua case.

However, Zorkin has proposed a solution to the dilemma that the ECtHR poses to Russia. He suggests strengthening the international legal system and the UN ‘by defining the legal boundaries and the relation and hierarchy of basic concepts such as sovereignty, non-interference in the internal affairs of sovereign states, territorial integrity, the right of nations to self-determination, the protection of human rights and so on’ (p. 204). Bowring thinks Zorkin’s suggestion is paradoxical because this view of international law ‘is not so far at all from the Soviet conception of international law’ (p. 204).

**Russia and the Balance of Power**

Despite Bowring’s criticisms of those Russian intellectuals advocating sovereign democracy, he concludes his book by writing that he has

> great sympathy with those who argue . . . that it is essential for the future of global politics that Russia remains a great power and realizes the potential of its location in Europe and in Asia, as a great Christian and Muslim country. (2008: 207)

Indeed having Russia as a great power is essential to maintaining a balance of power in the international legal and political system – if only to chasten those states that seek to undermine international law or bend the rules for short-term political gain with long-term destabilizing consequences. This is a real possibility if the West intervenes in Syria’s civil war. For if America, Britain and France can circumvent the UN Security Council, why can’t Russia? For the moment, little is likely to change on the international plane on questions of war and peace. Russia will continue to safeguard what it perceives to be its national interests and in so doing, it will continue to support the cause of international peace and security by preserving multinational and multi-religious states rather than seeking their break-up. And as Bowring tells us, in preserving its multinational and multi-religious political system, today’s Russia is acting no different to the Tsarist Empire of previous times or of the Soviet Union. Perhaps this is a perfect illustration of the fact that Russia’s national interests seldom change, no matter the government or its political system. And cannot the same be said of many of the other great powers?
Notes

All unattributed references are to Bowring’s book.


2. In Libya, Russia voted in favour of a UN Security Council resolution, which although it authorized member states to ‘take all necessary measures to protect civilians and civilian population areas’ specifically excluded ‘a foreign occupation force of any form on any part of Libyan territory’. This did not, however, prevent regime change, something that clearly upset the Russians and has ominous consequences for Syria. See UNSC Res. 1973, 17 March 2011.


5. This occurred after Russia’s Foreign Minister Sergei Lavrov seized on a comment made by John Kerry, the US Secretary of State, that Syria had 1 week to get rid of its chemical weapons stockpile. After this, the United States and Russia reached an agreement on dismantling Syria’s stockpile. See ‘US and Russia agree Syria chemical weapons deal’, BBC News online, 14 September 2013.

6. Words to this effect or words, which could be interpreted to this effect, were included in the UN’s 1974 Definition of Aggression annexed to GA Res. 3341 (XXIX), 14 December 1974, Article. 7. See also, Declaration on Principles of International Law Concerning Friendly Relations and Co-operation Amongst States of 1970, which also contains a provision on self-determination, in which peoples deprived of that right, are entitled to resist their occupiers in pursuit of the exercise of their right to self-determination and are entitled to seek and to receive support in accordance with the purposes and principles of the Charter. See further, Article 1, paragraph 4, of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977.

7. These comments were attributed to Richard Perle.


References


