

8 Leonid Kamarovskii

Christian values and international law

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Kamarovskii and the modern science of international law

Leonid Alekseevich Kamarovskii (or Komarovskii, 1846–1912) was a scholar of encyclopedic knowledge who left a huge body of work—more than two hundred books, articles, and essays. A number of his works were dedicated to various aspects of the internal political life of Russia in his day, including constitutional law, parliamentarism, governmental power, and political parties. He also wrote on Russian foreign policy, particularly Russia's relationship with the Balkan states, and published articles on university education. However, works on international law and international relations are the most significant part of his scholarly legacy, in both scope and intellectual content.¹ In the words of Sergei Kotliarevskii, international law “was not just the object of Count L. A.’s professional *work*, but the object of his profound faith and devotion.”²

As a scholar, Kamarovskii addressed nearly every principal problem of international law: the nature, objective conditions, and concrete forms of international law; the rights of sovereign states to security, development, and equality; the means and methods of resolving international disputes; the idea of an international court; and problems of international organization. But the principal theme of all his work on international law was the idea of peace. As he put it:

No critical, dispassionate mind can fail to see that the higher the moral and intellectual level of humanity rises, and the more perfect the organization of states becomes in terms of freedom and stability, the more completely war contradicts these developments. In our day, when society has reached such a high level of culture and even aspires to call itself Christian, war is a scandalously discordant element.³

1 The most complete bibliography of Kamarovskii's published works is in A. S. Iashchenko, “Graf L. A. Kamarovskii: Zhizn' i nauchnaia rabota,” *Izvestiia Ministerstva inostrannykh del*, 1913, kn. 1: 117–34, here at 129–34.

2 S. Kotliarevskii, “Neskol'ko slov pamiati gr. L. A. Kamarovskogo (1846–1912),” *Iuridicheskii vestnik*, 1913, kn. 4: 222–23, here at 222.

3 L. Kamarovskii, *Voina ili mir?* (Odessa: Tipografiia Isakovicha, 1895), 8–9.

Kamarovskii believed that the establishment of “the most equitable and stable peace possible among states by means of a special international organization” should be the main goal of international law. He qualified this view by declaring that peace should be taken to mean

not the utopia of eternal, i.e., universal and uninterrupted peace on earth, but peace understood only as a juridical principle.... This principle is much more concrete, definite, and limited, and it is quite realizable. The establishment of *such* a peace is a straightforward and noble task. Will a broader and more lasting peace thereby arise on our planet? Only future ages—in all likelihood, far removed from us—can answer this question.⁴

Kamarovskii did not just investigate specific problems of international law. He also attempted to establish what can be called *the ideology of modern international law*. He saw that it is impossible to establish a stable order of international law when, in the global arena, the actions of individual states are governed solely by self-interest. Accordingly, he expressed the view that

the exclusively political interests of individual states—interests which lead to universal hostility and anarchy, or to temporary and artificial compromises—should be replaced by international legal principles which, while respecting the independence and autonomy of nations, bind them together as members of humankind into a higher, living whole.

Kamarovskii felt that the best way to shed light on these principles was “to eschew the opinions of diplomats and listen instead to public opinion” when it is expressed with total candor.⁵

At the same time, he saw the Christian religion as the prototype of universally accepted, hence universally binding, principles of international law capable of putting an end to incessant hostility between states. Inherently cosmopolitan and universal, Christianity is

diametrically opposed to the pagan religions, all of which were national in character. Although Christianity was not the immediate source of international law, it was the factor which more than any other cleared the way for it because of the profound inner kinship that exists between the ideas and commandments of Christianity on one hand and the principles of international law on the other.⁶

4 L. A. Kamarovskii, “Ob osnovnoi zadache mezhdunarodnogo prava,” *Rech'*, proiznesennaia v torzhestvennom sobranii Imperatorskogo Moskovskogo Universiteta, 12-go ianvaria 1898 goda (Moscow: Universitetskaia tipografia, 1898), 3.

5 Kamarovskii, *Voina ili mir?*, 22.

6 L. Komarovskii, *Mezhdunarodnoe pravo* (Moscow: Tipografia Obshchestva rasprostraneniia poleznykh knig, 1900), 8.

A. S. Iashchenko, Kamarovskii's pupil, wrote a biographical portrait in which he sought to define his teacher's place in the history of the science of international law. Iashchenko called Kamarovskii "a representative of the religious-philosophical tendency" in international law.⁷ However, this is not a completely accurate assessment of Kamarovskii's approach to the subject. While paying attention to the inner kinship between the principles of the Christian religion and the ideas of international law, Kamarovskii qualified this point by saying that

international law as a juridical system *is not to be identified with either religion or morality but rests upon independent principles of law*. International law will gradually be extended to all the nations in the world as they come to understand its nature and purpose. [italics added]⁸

Kamarovskii viewed international law not from the religious or moral standpoint but from the juridical standpoint. Thus, he predicted that international law would eventually include nations professing religious beliefs quite different from Christianity. He believed that the significance of Christianity for international law lay not in its particular religious content but in its general worldview. Kamarovskii emphasized repeatedly that Christianity did not create international law, but played the enormous role of forming the cultural and spiritual community among nations which is the necessary objective condition of the existence of international law. As he put it, "In its basic idea and commandments, Christianity has expressed what international law aspires to convey in juridical language" (22).

According to Kamarovskii, three Christian ideas facilitated the emergence of the spiritual community from which international law sprang up. The first was *the idea of the unity of all humankind*. The second was *the idea of the brotherhood of all human beings*. According to Christian teaching, "all human beings, as sons of God, are brothers, regardless of nationality, class, or social standing." The third idea, derived from the other two, is *peace*. Kamarovskii firmly believed that "Christianity is the most sublime teaching of peace the world has ever known" (22). In *The Idea of Peace and the Church*, Kamarovskii supported his view with specific references to canonical Christian texts. "According to the Gospels," he observed,

the commandment of peace is one of the fundamental commandments for all Christians. This is attested not only by the whole spirit of the Gospels, but also by many other texts, the plain meaning of which cannot be obscured by certain passages and [historical] facts which appear to contradict this spirit.... [A]postles constantly and insistently repeat the commandment of peace. In their epistles, they use this word to greet the faithful, they view God as the

7 Iashchenko, "Graf L. A. Kamarovskii," 123.

8 L. Kamarovskii, *Osnovnye voprosy nauki mezhdunarodnogo prava, Uchenye zapiski Imperatorskogo Moskovskogo universiteta*, Otdel iuridicheskii, vyp. 10 (Moscow: Universitetskaia tipografiia, 1895), 1-201, here at 57.

foundation of true peace, and they even call their whole teaching *the ministry of reconciliation*.⁹

While remaining separate from the norms and principles of international law, the spiritual values of Christianity helped to strengthen the order of international law by their moral effect on it. "There is no doubt that a lasting improvement of international relations cannot be achieved unless the moral level of both rulers and peoples is raised," Kamarovskii averred, adding that "morality, in turn, finds its deepest and most lasting basis in religion."¹⁰

On March 12, 1903, Kamarovskii delivered a public lecture at Moscow Diocesan House on the importance of Christian morality for normal international relations. He remarked:

No matter how perfect our laws and state institutions might be (and they are very far from perfect), they will always need the support of morality. There are two reasons for this. First, in both life and consciousness, morality precedes law and makes up for its gaps and deficiencies. Second, morality deepens the meaning of the ideas expressed in law, provides these ideas with practical application, and opens the way for their improvement in the future. The life of a community in all its forms—from families to international alliances—does not rest on compulsion but on the animating effect of a moral principle. Moreover, when we speak of this principle, we do not mean autonomous morality based on the idea of humans as rational beings belonging to this world alone. We mean Christian morality, which draws its principles from divine revelation. Of all systems of morality proposed so far, Christian morality is the most profound intellectually and the most applicable to everyday life.¹¹

"A most idealistic and deeply religious man"

Kamarovskii's Christian worldview enabled him to appreciate the qualities that make international law one of the grandest phenomena in the life of human society. But Kamarovskii was not only a scholar with a pronounced Christian style of thought, he was also a Christian by education, temperament, and mode of life. A. S. Iashchenko, who knew Kamarovskii well, noted:

Count Kamarovskii was unusually truthful, guileless, and honest. In all his relationships, this guilelessness lent him an endearingly old-fashioned

9 L. Komarovskii, *Ideia mira i Tserkov'* (Moscow: Tipografiia G. Lissnera i A. Geshelia, 1899), 4, 6. Kamarovskii is referring to 2 Cor. 5:18: "All this is from God, who through Christ reconciled us to himself and gave us the ministry of reconciliation" (Revised Standard Version).

10 Kamarovskii, *Osnovnye voprosy nauki mezhdunarodnogo prava*, 55–56.

11 L. A. Kamarovskii, "Khristianskaia nrvstvennost' i mezhdunarodnye snosheniia," *Vera i Tserkov'*, 1903, kn. 5: 810–27, here at 810–11. Moscow Diocesan House was an Orthodox educational center in central Moscow which opened in 1902. It now houses St. Tikhon's Orthodox University of Humanities.

quality—aristocratic, simple, and a bit naïve amid the political and social chicanery of our complicated age. He was a very religious person, a believing Christian, and completely devoted to the precepts of the Orthodox Church. He would begin every important undertaking with a prayer, and prior to every decisive step in his life he would pray before the icon of the Iberian Mother of God. He was close friends with many hierarchs of the Russian Orthodox Church, including Anastasii, vicar bishop of Serpukhov, and especially Arsenii, archbishop of Novgorod, doctor of theology, former rector of Moscow Theological Academy, and a member of the State Council.¹²

In 1900, Arsenii was bishop of Volokolamsk. In that year, he wrote in his diary of a visit with the “most estimable and kind” Kamarovskii family: “I spent a very pleasant two hours with them. A family like this one is very rare. They exude such purity and sincerity, such a welcoming spirit, that you seem to be raised to a higher plane.”¹³ In the same diary entry, Arsenii called Kamarovskii “a most idealistic and deeply religious man.” This characterization agrees completely with the opinion of Iashchenko, who wrote:

[Kamarovskii’s] modest, almost ascetic mode of life, his profound religiosity and abiding simplicity of heart, the kind yet stern, ascetic features of his slender, immobile face—all this conveyed the impression of something close to holiness and made one think of the ancient Russian saints.¹⁴

Leonid Alekseevich Kamarovskii was born into a noble family on March 15, 1846, in Kazan. His father, Aleksei Evgrafovich Kamarovskii, was a landowner. His mother, Adelaida Albertovna, was the daughter of Baron Albert Karlovich Pirch, a Kazan landowner of German descent. Initially, Leonid was educated at home by teachers who administered the standard gymnasium curriculum. Religion was also part of Kamarovskii’s early training. As Iashchenko remarked, “with respect to religion, his education was closely supervised by his mother, who was deeply devoted to the precepts of the Orthodox Church and imparted her religiosity to her son.”¹⁵ In 1864, as a nonmatriculant, Kamarovskii passed the entire course of study in the First Kazan Gymnasium and enrolled in the law faculty of Moscow University.

As a student, Kamarovskii had a wide range of interests. Both Russian state law and ancient Roman history attracted him, and the latter was actually the subject of his first thesis.¹⁶ But international law eventually became the chief focus of his

12 Iashchenko, “Graf L. A. Kamarovskii,” 121.

13 Arsenii (Stadnitskii), mitropolit, *Dnevnik*, vol. 1: 1880–1901 (Moscow: Izdatel’stvo Pravoslavnogo Sviato-Tikhonovskogo universiteta, 2006), 360.

14 Iashchenko, “Graf L. A. Kamarovskii,” 121.

15 Ibid., 117.

16 Kamarovskii’s candidate’s thesis, “Studies on Roman Finance and Economics,” came out as a monograph: *Ocherki Rima v finansovom i ekonomicheskom otnosheniakh* (1869; Moscow: LENAND, 2018).

attention. From his student years to the day of his death, he treated this discipline as if it were his religion.

After completing his undergraduate studies in 1868, Kamarovskii stayed on in the department of international law to write a master's thesis. In 1871–72, he studied international law at Heidelberg University under Johann Kaspar Bluntschli.¹⁷ Professor Bluntschli showed great cordiality toward the young Russian scholar and was happy to offer him advice and guidance. Kamarovskii treated Bluntschli with great respect, although he did not accept all of his views on international law. In the foreword to his master's thesis, *The Principle of Nonintervention*, Kamarovskii wrote:

I am particularly grateful to Professor Bluntschli of Heidelberg University, who was always ready to guide me with advice and supply me with books from his library during my stay of nearly a year and a half in picturesque Heidelberg. The days I spent with this worthy servant of science are among the most radiant memories of my life.¹⁸

Kamarovskii shared Bluntschli's view that Christianity played a prominent role in the development of international law. Kamarovskii called the following passage from Bluntschli on this point "superb":

Many Christian ideas paved the way for international law. Christianity regards God as the father of human beings and human beings as children of God. This view recognizes in principle the unity of humankind and the brotherhood of all nations. The Christian religion restrains the pride and conceit of the ancient world and demands humility; it cuts off egoism at the root and teaches self-denial. It places self-sacrifice on behalf of one's neighbors above domination. In this way, it removes the obstacles that hindered the emergence of international law in antiquity. It elevates and liberates human beings, purifying them and reconciling them with God. Its message is peace. It would therefore be quite natural to translate these ideas and commandments into the principles of a humane international law that recognizes all nations as members of one great family of humankind, protects

17 Johann Kaspar (also Caspar) Bluntschli (1808–81) was a jurist of Swiss origin, the author of *Moderne Kriege recht der civilisirten Staaten, als Rechtsbuch dargestellt* [The modern law of war of civilized states, expounded as a code] (Nördlingen: C. H. Beck'sche Buchhandlung, 1866) and *Das moderne Völkerrecht der civilisirten Staaten, als Rechtsbuch dargestellt* [The modern international law of civilized states, expounded as a code] (Nördlingen: C. H. Beck'sche Buchhandlung, 1868). Kamarovskii edited the Russian translation of the latter: I. Bliunchli, *Sovremennoe mezhdunarodnoe pravo tsivilizovannykh narodov, izlozhennoe v vide kodeksa*, trans. V. Ul'ianitskii and A. Lodyzhenskii, ed. L. Kamarovskii (Moscow: V tipografii Indrikh, 1877).

18 L. Kamarovskii, *Nachalo nevmeshatel'stva* (Moscow: V Universitetskoi tipografii [Katkov i Ko.], 1874), iv.

peace everywhere, and even in times of war demands respect for universal human rights.¹⁹

On October 14, 1874, Kamarovskii delivered his introductory lecture as a privatdocent in the law faculty of Moscow University. The title was "Comments on the Relation of International Law to Other Branches of Jurisprudence."²⁰ Such was the beginning of a teaching career of thirty-eight years at Moscow University.

On December 5, 1874, Kamarovskii successfully defended his master's thesis, *The Principle of Nonintervention*. At the defense, he called his thesis the first result of his study of international law and politics. As for the topic, he went on to say:

Anyone who devotes himself to the study of a specific discipline will naturally direct his attention to the general and fundamental problems of the field he has chosen. In the field of international law, *the principle of nonintervention* is indisputably this kind of problem. On the one hand, a scientific understanding of the subject becomes clearer to us as we learn more about the life of states and the laws that govern it; on the other hand, actual practice at every turn brings us face to face with the interference of one state in the affairs of another.²¹

Kamarovskii fully recognized the strangeness of trying to apply some sort of legal norms to intervention, that is, to the display of force and selfish calculations by intervening states. Obviously, such excesses occur when "by force or clever intrigues states can benefit from the troubles and discord of their neighbors." He went on to explain, however, that "to renounce the desire to grasp and define the various forms of intervention is tantamount to relegating all relations between states to brute force alone—a conclusion that contradicts the fundamental idea of international law" (99).

Seeking to understand the principle of nonintervention, Kamarovskii began by examining theories expounded in the foreign literature. Next, he examined diplomatic documents related to defensive intervention: in connection with the French Revolution at the end of the eighteenth century, and in connection with the activity of the Holy Alliance (Russia, Austria, and Prussia) during the 1820s. The design of Kamarovskii's work had an obvious shortcoming in that he discussed

19 Quoted in Kamarovskii, *Osnovnye voprosy nauki mezhdunarodnogo prava*, 23. The quotation is from Bluntschli, *Das moderne Völkerrecht der civilisirten Staaten*, 12. See also Bliunchli, *Sovremennoe mezhdunarodnoe pravo tsivilizovannykh narodov*, 15.

20 "Zamechaniia ob otnosheniakh mezhdunarodnogo prava k drugim otrasliam pravovedeniia." The lecture was published in the newspaper *Moskovskie vedomosti* in October, 1874. The following year it was published in French translation: L. A. Kamarowsky, "Quelques réflexions sur les relations entre le droit international et les différentes branches de la jurisprudence," *Revue de droit international et de législation comparée* 7 (1875): 5–21.

21 *Sbornik gosudarstvennykh znaniï*, ed. V. P. Bezobrazov, vol. 2 (St. Petersburg: V tipografii V. Bezobrazova i Ko., 1875), Otdel kritiki i bibliografii, 98–103, here at 98–99.

theories of nonintervention and the practice of international relations separately, which made it impossible to assess the theories properly. Grouping theories of nonintervention by the nationality of their authors was also a flaw.²² Another shortcoming was Kamarovskii's failure to analyze the Monroe Doctrine (1823), which vowed noninterference by the United States of America in the internal affairs of the European states and demanded the noninterference of the European states in the political affairs of the Americas.

The greatest shortcoming of Kamarovskii's thesis was a contradiction in its basic concepts. While insisting on the need to distinguish intervention from mediation and war,²³ and while demonstrating the extreme danger of interventionism, Kamarovskii nevertheless recognized the legitimacy of intervention on the basis of "the higher demands of altruism" for the purpose of protecting certain common human interests. Kamarovskii did not reckon with the fact that such a vague argument could be used in practice to justify virtually any interference in the internal affairs of another state. Numerous instances of intervention by the United States of America in our own day are justified as a means of defending "common human interests," whereas in fact we see the egotistical interests of national or global elites at work.

F. F. Martens, an authoritative Russian scholar of international law, declared that "all exceptions to the principle of nonintervention" are "dangerous." Nevertheless, he allowed that intervention in the internal affairs of states is permissible in certain cases, such as:

- 1) where intervention is based on a treaty, e.g., where one state has promised to guarantee the system of another. It goes without saying that a guarantee to preserve the existing order of another state is atypical, but if it is based on a treaty, it cannot be negated.
- 2) where a coup d'etat violates the positive legal rights of other powers;
- 3) where intervention is prompted by the intervention of another state (counterintervention) .

In contrast to Kamarovskii, Martens found the legal basis for intervention in the violation of *laws*, not of interests.

22 Most of Kamarovskii's book is devoted to summarizing the views of his European and American contemporaries: Karl von Rotteck, Heinrich von Rotteck, Carl Friedrich Heiberg, August Wilhelm Heffter, Johann Kaspar Bluntschli, Henry Wheaton, William Beach Lawrence, Carlos Calvo, Richard Wildman, Robert Phillimore, Augustus Granville Stapleton, Paul Pradier-Fodere, Pellegrino Rossi, Terenzio Mamiani, Pasquale Fiore, Ercole Vidari, Augusto Pierantoni, and Giuseppe Amari. The book also takes into account an essay by the Russian legal scholar M. N. Kapustin, "Pravo nevmeshatel'stva, ogranichivaiushchee nezavisimost' gosudarstv," in Kapustin, *Obozrenie predmetov rnezhdunarodnogo prava*, vyp. 2, otd. 2-6 (Moscow: Universitetskaia tipografiia, 1856), otd. 6.

23 Kamarovskii, *Nachalo nevmeshatestva*, 103.

24 F. F. Martens, *Sovremennoe mezhdunarodnoe pravo tsivilizovannykh narodov*, 2 vols. (St. Petersburg: Tipografiia Ministerstva Putei Soobshcheniia [A. Benke], 1882-83), 1:297.

Subsequently, Kamarovskii himself was highly critical of his first scholarly work on international law. He admitted that, owing to his youth and to the incompleteness of his research, the results of his first study of the principle of nonintervention were “obviously quite deficient.”²⁵

In his master’s thesis, Kamarovskii expressed not only his scientific ideas but also his political convictions. In this connection, he presented a critique of the views that Friedrich Brockhaus expounded in *The Principle of Legitimacy*.²⁶ Brockhaus attempted to show that the legitimacy of a ruler is based on the mere fact that the ruler is in possession of supreme power. “I must confess,” Kamarovskii wrote,

that I cannot agree with Brockhaus’s conclusion. Supreme power cannot be regarded as belonging exclusively to the one who is the most audacious. It also acquires its sanction juridically: through inheritance of the throne in absolute monarchies, through religious ideas in theocracies, or through the respect and love of the people in enlightened countries. *The nation, as a living political person, is not a thing that can be treated irresponsibly* [italics added].²⁷

In 1874, another significant event occurred in Kamarovskii’s life: he got married. His bride was Ekaterina Aleksandrovna Shirinskaia-Shikhmatova. They had three children: Sergei (b. 1876), Ekaterina (b. 1878), and Mariia (b. 1883).

L.A. Kamarovskii’s doctoral dissertation: “On an International Court”

Kamarovskii spent 1878–79 in France doing research for his doctoral dissertation. He chose to write on the question of an international court. Kamarovskii deduced the idea of such an institution from the nature of the modern state. The modern state cannot exist without interacting with other states. However, it is not possible to create a global central government to regulate relations among states, since in that case the states would cease to be states and would become the provinces of some kind of world state. Since sovereignty is an essential feature of the modern state, it follows that an international union to regulate relations among states can only be *juridical*, not political, in character. Kamarovskii was fully aware that international life is not a replication of the internal life of states on a larger scale. It transcends the latter and, as a special sphere of human existence, requires a special form—an international juridical organization. He believed that such an organization is not the product of abstract theoretical conceptions but must grow out of the actual practice of interstate relations. The primary

25 Kamarovskii, *Nachalo nevmeshatel'stva*, 100.

26 Friedrich Brockhaus, *Das Legitimitätsprincip: Eine staatsrechtliche Abhandlung* (Leipzig: F. A. Brockhaus, 1868). The author was the grandson of the eminent publisher Friedrich Arnold Brockhaus (1772–1823).

27 Kamarovskii, *Nachalo nevmeshatel'stva*, iv.

nucleus around which the international juridical order, or positive international law, will crystallize, is an *international court*, the expression and embodiment of the juridical principle of community.

Investigating the question of an international court, Kamarovskii did not confine himself to the search for the sources of his idea or to the analysis of the development of the idea in scholarly works. He also constructed an actual model: the theoretical foundation of the institution and the practical principles of its organization, internal structure, and operation. The pages of his doctoral dissertation on which this model is described are the most valuable part of the work.²⁸

In 1881, Kamarovskii successfully defended his dissertation before the council of the law faculty of Moscow University, and the work was published the same year. In 1887, it came out in French translation.²⁹ As W. E. Butler has observed,

Kamarovskii's contemporaries were amazed by the logic and pragmatism of his model of the international court, and many elements of his model were subsequently incorporated in the Permanent Court of Arbitration (est. 1899) and the Permanent Court of International Justice (est. 1920) in The Hague. Kamarovskii's book richly deserves its reputation as the first and most fundamental work on this subject.³⁰

Kamarovskii maintained that the international court would become the highest organ of human justice on earth and would be the nucleus and chief basis of an international organization comprising the states of Europe and America without those states having to sacrifice their independence and nationality. "Only a reform of this sort," he averred, "can make international law fully positive."³¹ At the same time, Kamarovskii tried to convince his readers that an international court, in and of itself, did not represent anything especially new or unusual. It arose from the same conditions and considerations that often led states to prefer the practice of arbitration to the wiles of diplomacy and the devastation of war. However, an international court "transforms an impermanent court of arbitration into a permanent institution governed by juridical principles and providing its members with all desirable guarantees" (524).

Kamarovskii formulated the organization and activity of the international court on the basis of the principles governing the formation of a judiciary in any developed state. The first principle he posited was independence: "In the international domain, the court must be independent of the parties whose case it

28 L. Kamarovskii, *O mezhdunarodnom sude* (Moscow: Tipografia T. Malinskogo, 1881), 519–38.

29 L. Kamarowsky, *Le tribunal international*, trans. Serge de Westman, intro. Jules Lacoïnta (Paris: A. Durand et Pedone-Lauriel / G. Pedone-Lauriel, 1887).

30 W. E. Butler, "Graf L. A. Kamarovskii i sozdanie mezhdunarodnogo suda," in L. A. Kamarovskii, *O mezhdunarodnom sude*, ed. L. N. Shestakov (Moscow: Zertsalo, 2007), xxxv–xliii, here at xlii–xliii.

31 Kamarovskii, *O mezhdunarodnom sude* (1881), 459.

is considering and of all political tendencies and opinions.” Second, the international court must be based on the principle of *collegiality*, as is the case with the organization of the judiciary everywhere. Other principles Kamarovskii singled out included “oral, adversarial proceedings,” “public access” to judicial proceedings, and “the principle of two instances,” that is, the right of appeal (519–20).

It is interesting to note that Kamarovskii assigned a legislative function to the international court. As he conceived it, the court

should seek to identify the juridical elements in the claims of the contending parties, to invest those claims to the extent possible with the forms of a regular judicial proceeding in keeping with concrete juridical principles, with the aim of establishing a new relationship between the contending parties. Thus, the court first applies existing law, but when it finds omissions and contradictions in the latter, it heeds the directives and demands of life and undertakes to *draft new international laws*. These it develops methodically with the participation, if necessary, of competent and enlightened statesmen and jurists and forwards them, with an accompanying rationale, for consideration and approval by the respective governments.

(529–30)

On October 30, 1881, Kamarovskii was awarded a doctorate in international law by the council of Moscow University and was appointed ordinary professor in the Department of International Law.³²

Kamarovskii's doctrine of the nature and content of international law

The 1880s and 1890s were a time of intense scholarly activity in Kamarovskii's life. He presented more than thirty papers at meetings of the Moscow Juridical Society. He published dozens of articles in scholarly journals on a wide range of topics: “The Institute of International Law in the Last Five Years, 1876–1881,”³³ “On the Idea of Peace Among Nations,” “The Laws of Land War,” “Toward a Theory of Treaties,” “On the Admission and Expulsion of Foreigners,” “On the Organs of Modern International Unions,” “The Attempt to Codify Private International Law—The Hague Conference of 1893,” “On the Meaning of War for Modern Society,” “International Law as a Subject of Self-education,” “The Question of the Reduction of Modern Armaments,” and many others.³⁴ He also

32 Tsentral'nyi istoricheskii arkhiv goroda Moskvy (TsIAM), f. 418, op. 50, d. 223.

33 The Institute of International Law was founded in 1873 in Ghent, Belgium. Kamarovskii became a corresponding member in 1875 and a full member in 1891.

34 “Institut mezhdunarodnogo prava za poslednee piatiletie, 1876–1881,” *Iuridicheskii vestnik*, 1882, vol. 10, no. 6: 171–200; no. 7: 367–81. “Ob idee mira mezhdunarodami,” *Russkaia mysl'*, 1884, no. 7, pt. 1: 120–35. “Zakony sukhoputnoi voiny,” *Iuridicheskii vestnik*, 1885, vol. 19, no. 8: 703–28. “K ucheniiu o traktatakh,” *Iuridicheskii vestnik*, 1887,

published a number of books and pamphlets: *On the Political Causes of War in Modern Europe*, *On International Measures in the Battle against Epidemics*, *The Eastern Question*, *On the Fundamental Problem of International Law*, and *Some Successes of the Idea of Peace*, among others.³⁵

Kamarovskii's most significant works during this period were *Fundamental Questions of the Science of International Law* (1895) and a textbook, *International Law* (1900).³⁶ In these works, Kamarovskii expounded his views on the origin and nature of international law as well as its contents, objective foundations, and connection with other branches of law. He also explored the application of international law and the scientific and practical significance of studying it. In Kamarovskii's opinion, international law did not exist in antiquity or the Middle Ages. Its origin can be traced to the seventeenth century, the early modern period, when all the objective conditions necessary for its inception were in place: 1) the existence of numerous states; 2) the existence of independent, sovereign states; and 3) the existence of states connected by a common culture. Kamarovskii thought that this last condition was particularly important in the formation of international law because international law could arise only where states were conscious of "their solidarity in the accomplishment of shared cultural tasks."³⁷ Thanks to this solidarity, and despite political differences generating disharmony, nations

began to converge because of common ideas and common interests into a kind of union, which, over the centuries, was transformed from a simple *de facto* order into an increasingly well-defined, genuine *juridical union*. The idea of such a union, like that of any association or union, assumes that its members recognize the principle of mutual equality and the necessity of self-limitation in the service of the common interest. In this way, the egoism and brute force typical of the *de facto* order give way to principles of

vol. 25, no. 5: 114–23. "O dopushchenii i izgnanii inostrantsev," *Iuridicheskii vestnik*, 1889, vol. 3, no. 12: 519–33. "Ob organakh sovremennykh mezhdunarodnykh unii," *Russkaia mysl'*, 1892, no. 12, pt. 2: 161–82. "Opyt kodifikatsii chastnogo mezhdunarodnogo prava—konferentsiia v Gaage 1893 g.," *Zhurnal iuridicheskogo obschestva*, 1894, no. 6: 1–18. "O znachenii voiny dlia sovremennogo obschestva," *Severnyi vestnik*, 1895, no. 2, pt. 1: 127–41. "Mezhdunarodnoe pravo kak predmet samoobrazovaniia," *Sibirskii vestnik*, 1895, no. 12: 46–68. "Vopros o sokrashchenii sovremennykh vooruzhenii," *Russkaia mysl'*, 1898, no. 10: 118–21.

35 *O politicheskikh prichinakh voiny v sovremennoi Evrope* (Moscow: Universitetskaia tipografiia, 1888). "O mezhdunarodnykh merakh bor'by s epidemiami." Rech', proiznesennaia v torzhestvennom sobranii Imperatorskogo Moskovskogo Universiteta, 12-go ianvaria 1893 goda (Moscow: Universitetskaia tipografiia, 1893). *Vostochnyi vopros* (Moscow: Izdanie knizhnogo magazina Grosman i Knebel' [I. Knebel'], 1896). "Ob osnovnoi zadache mezhdunarodnogo prava" (1898; see note 4). *Uspekhi idei mira* (Moscow: Izdanie knizh. magaz. Grosman i Knebel' [I. Knebel'], 1898).

36 *Osnovy voprosy nauki mezhdunarodnogo prava* (see note 8). *Mezhdunarodnoe pravo* (see note 6).

37 Kamarovskii, *Mezhdunarodnoe pravo*, 9.

commonality and solidarity leading to relations that are regular and enduring, i.e., organized.

(9)

Kamarovskii's starting point was an understanding of international law as a juridical phenomenon. "International law," he wrote,

should be understood as a set of norms which are binding on states and their subjects in their relations to each other and, in general, to other people who are currently members of the International Union, but also, speaking more broadly, [members] of humankind as a whole.³⁸

Here, Kamarovskii understood the term "binding" to mean "juridical." "International law" he explained,

is composed of *binding* norms. This means that its norms are not just moral principles or political rules, but essentially juridical norms, i.e., norms that are protected by law and, in extreme cases, *by force*. The association of these norms with law is determined by their nature and purpose: the object of law is to protect human beings' life together in society.³⁹

In the structure of international law, Kamarovskii distinguished three parts that tend to evolve into separate disciplines. The first, *public international law*, comprises norms protecting the interests of the state as a whole. It includes: 1) the study "of states as international persons," their emergence, rights, and termination; 2) the study of the territorial principle and of international agreements; and 3) the study of conflicts between states and various methods of resolution.

The second part comprises norms protecting the interests of individuals living in foreign lands. Kamarovskii believed that such norms should be distinguished from public law and assigned to the field of *private international law*. The third branch comprises norms protecting the practical social concerns embodied in international networks such as the postal service, the telegraph, railroads, industry, literature, and the like. Kamarovskii called the juridical norms associated with these concerns "*social international law*, a discipline which falls somewhere between public and private international law" (9).

38 Kamarovskii, *Osnovnye voprosy nauki mezhdunarodnogo prava*, 6. It is interesting that, while Kamarovskii looked at international law as "a set of norms which are binding on states and their subjects in their relations to each other and, in general, to other people," his teacher, Bluntschli, represented international law as a world order—a political rather than a normative phenomenon. "International law," wrote Bluntschli, "is a recognized world order linking different states into one universal-human juridical association and guaranteeing to all subjects of these states equal defense of their particular and generically human rights" (I. Bliunchli, *Sovremennoe mezhdunarodnoe pravo tsivilizovannykh narodov*, 65).

39 Kamarovskii, *Osnovnye voprosy nauki mezhdunarodnogo prava*, 6.

When Kamarovskii spoke of the objective foundations of international law, he meant conditions that are independent of acts of will, be it the will of individuals or of powerful states. These conditions include "the distinctive physical characteristics of Europe," "the ethnic kinship of the European peoples," "their spiritual kinship," and "the parallelism of their historical growth and development" (17). Kamarovskii regarded Russia as a "special world," a country that "differs more from Europe than the individual European nations differ from one another." Russia's difference consists not just in the great size of the country and its geographical location between the European and Asian worlds, but in other facts of Russian history, such as the adoption of Christianity from Byzantium rather than Rome, the long struggle against plunderers from Asia, the long separation from Europe, and so on. "But Russians, like the Slavs in general," Kamarovskii believed,

are members of the great European family of nations, first of all, because they are Christian, and second because, like the Romance and Germanic peoples, they are Aryans and possess the talents common to the latter. Thus, while international law has its roots in the soil of Western Europe, it is not foreign or hostile to Russia and the other Slavic peoples; rather, while respecting and recognizing their particular characteristics, international law unites all Christian peoples into one great, living family.

(30)

Kamarovskii believed that the science of international law is "a logical deduction from the principles of all other disciplines of law and [also] their natural and profound culmination." In a striking analogy, he opined,

international law occupies the same place in the system of jurisprudence that philosophy occupies with respect to the branches of human knowledge in general: it unifies and completes them. However, there is also an important difference. Whereas philosophy plays a purely theoretical, abstract, and logical role, international law is *living*, hence *many-sided and real*.

(84)

Thus, in the scholarly study of jurisprudence, Kamarovskii regarded international law as *the science of sciences*. He believed that a basic knowledge of international law was obligatory not only for jurists but also for statesmen, politicians, journalists writing on international themes, and so on:

A broader knowledge of the principles of international law among the educated classes is highly desirable. This will enlighten the minds of the populace, moderate its passions, and augment peace. Political opportunists and hack journalists will have fewer opportunities to toy with the destinies of nations to accomplish their dark personal goals.

(91)

Kamarovskii in early twentieth-century Russia: political views

December 19, 1897, was the twenty-fifth anniversary of Kamarovskii's teaching career at Moscow University. According to the university charter, professors who had served this length of time had to be elected by the departmental council to another five-year term. A two thirds vote was required. On February 26, 1897, Kamarovskii was confirmed for another five years.⁴⁰ On December 19, 1899, he was awarded the title of distinguished ordinary professor.

The last decade of Kamarovskii's life was filled, as before, with intense scholarly activity. His publications in this period include: "Russia's Proposal on Arms Reductions," *International Law in the Nineteenth Century*, "The United States of Europe (On the Question of the International Organization of Europe)," *On the Question of the International Organization of Europe, Fundamental Principles of the Law of War, The Law of War*, and others.⁴¹ V. E. Grabar wrote of Kamarovskii:

Love of work made him the most productive of Russian internationalists, and not just Russian. All his works are permeated by one thought and one spirit: heartfelt devotion to the idea of international community, international organization, pacifism. In this respect, he was a very unusual and original person.⁴²

January 12, 1905, was the 150th anniversary of Moscow University. Russian scholars planned to celebrate the day with a series of festivities. There were to be celebratory orations as well as speeches making specific proposals for the improvement of university education in Russia. A banquet was to be held in St. Petersburg, at which the organizers planned to read "A Memorandum on the Needs of Education," a document addressed to the Russian government and signed by some of Russia's most authoritative scholars. The events in St. Petersburg on January 9, 1905 ("Bloody Sunday"), forced cancellation of the celebration. Instead, the "Memorandum" was published with the signatures of 342 persons, including sixteen full members of the Imperial Academy of Sciences, 125 professors, and 201 privatdocents of Russian higher educational institutions. Kamarovskii was among the signatories.

40 TsIAM, f. 418, op. 463, ed. khr. 28, ll. 162–67.

41 "Predlozhenie Rossii ob ogranichenii vooruzhenii," *Russkaia mysl'*, 1900, no. 5, pt. 2: 69–99. *Mezhdunarodnoe pravo v XIX veke* (Moscow: Tipografia Tovarishchestva I. N. Kushnerev i Ko., 1901). "Soedinennye shtaty Evropy (po voprosu o mezhdunarodnoi organizatsii Evropy)," *Russkaia mysl'*, 1902, no. 9, pt. 2: 1–31. *Po voprosu o mezhdunarodnoi organizatsii Evropy* (Moscow: Tipo-litografiia Tovarishchestva I. N. Kushnerev i Ko., 1902). *Osnovnye nachala prava voiny* (Moscow: Tipo-litografiia Iu. Verner, 1904). *Pravo voiny* (Moscow: Tipo-litografiia G. I. Prostakova, 1905).

42 V. E. Grabar', *Materialy k istorii literatury mezhdunarodnogo prava v Rossii (1647–1917)*, ed. W. E. Butler and V. A. Tomsinov (Moscow: Zertsalo, 2005), 391.

The "Memorandum" was a true political manifesto. It made a direct connection between the improvement of the educational system and the full and fundamental transformation of the Russian state on the basis of legality, political freedom, representative government, and control over the administrative actions of the government. The scholars knew how perilous it was to sign this document. All were government servants whose position brought them considerable material benefits and the opportunity to do creative work in their chosen fields. "Everyone can understand the position of a person who suddenly loses his livelihood, can understand the sufferings to which he and his family are condemned," wrote K. A. Timiriazev, "but not everyone can appreciate what a scholar deprives himself of—a scholar not in status only, but by vocation—when he deprives himself of the environment without which his work is unthinkable."⁴³ Indeed, the authorities were preparing to punish the signatories of the "Memorandum." There was talk in the Ministry of Education of terminating them or withholding their salaries. In a circular letter, the president of the Academy of Sciences, Grand Duke Konstantin Romanov, accused the signatories of interjecting politics into science and recommended that they refuse to accept their salaries from "the government they were censuring." But the scholars were fearless. Academician Aleksei Liapunov sent the Grand Duke the following answer:

We feel that it is our clear responsibility to indicate what we consider to be the way out of the present dire situation. This is our moral duty—to the fatherland to which we owe our high positions, and to the people from whose resources our state salaries are paid.⁴⁴

The further course of events in Russia in 1905 forced the government to forget about the scholars' oppositional sally. The political crisis, especially in St. Petersburg and Moscow, became so acute that many political activists began to speak of revolution. In these conditions, the autocracy began to make concessions. On October 17, 1905, the government issued the "Proclamation on the Improvement of the State Order" ("October Manifesto") promising "to grant the people civil liberties based on the inalienable rights of the individual, including freedom of conscience, speech, assembly, and association." Immediately after this proclamation, political parties appeared. The Constitutional Democratic Party was the first. Its founding assembly took place on October 12–18, 1905. Many jurists joined this party.

Kamarovskii did not stand apart from the party movement unfolding in Russia. He decided to link his political fate to the Union of 17 October, a party that began to organize itself in late October 1905 and held its first assembly in

43 K. A. Timiriazev, *Nauka i demokratiia: sbornik statei, 1904–1919 gg.* (Moscow: Izdatel'stvo sotsial'no-ekonomicheskoi literatury, 1963), 60.

44 Quoted in G. D. Komkov, B. V. Levshin, V. K. Semenov, *Akademiia nauk SSSR: Kratkii istoricheskii ocherk*, 2nd ed., 2 vols. (Moscow: Izdatel'stvo "Nauka," 1977), 1:315.

February 1906. The Octobrists' political program called for "a hereditary constitutional monarchy in which the emperor, as the bearer of supreme power, would be limited by Fundamental Laws [that is, a constitution]." Kamarovskii fully embraced this ideal.

The Third All-Russian Assembly of the Octobrists was held on October 4–8, 1908, in Moscow, in the hall of the Polytechnical Society. Kamarovskii delivered the opening address and also made a presentation on religious policy on behalf of the party's central committee. Kamarovskii himself wrote the presentation, which reflected his views on the relation between state and church:

Freedom of religion means the officially recognized right of every person to profess his faith without interference and to express it in rituals together with other persons of the same religion. But this freedom cannot be unconditional. It is not equivalent to the separation of church and state. Our state, as a Christian state, must give special protection to Christianity owing to the fact that the principle of the Christian religion is the chief support of human law and the foundation of the civil order. In the Russian state, Eastern Orthodoxy must be granted preeminent and official status owing to the fact that the Orthodox faith is historically linked to the destiny of the Russian state and undergirds the worldview of the overwhelming majority of the Russian people.

However, Kamarovskii underscored that "the privileges of the established Orthodox Church must not involve the persecution of other religions."⁴⁵

Kamarovskii was highly critical of the organization of the Russian Orthodox Church. Among the chief deficiencies, he identified the following:

1) weakening of the vital connection between the members of the church, 2) absence of initiative in the internal life of the church community, 3) extreme formalism and bureaucratism in all areas of church life, and 4) the excessive influence of the state, which deprives the church of the freedom and independence it deserves.

(100)

In 1909–10, a number of events confirmed that Russian society recognized Kamarovskii's scholarly achievements in the field of international law. In 1909, Nicholas II appointed him as the Russian delegate to the Permanent Court of Arbitration in The Hague. On December 4, 1910, Kamarovskii was elected corresponding member of the St. Petersburg Academy of Sciences in the section of history and philology. The Academy of Sciences did not have a section for jurisprudence.

45 *Partiia "Soiuz 17 oktiabria,"* vol. 2: *Protokoly III s"ezda, konferentsii i zasedanii TsK, 1907–1915 gg.* (Moscow: ROSSPEN, 2000), 100–01.

In 1909, Kamarovskii was elected dean of the law faculty of Moscow University. Insufficient compensation forced him to lecture not only at his alma mater but also at the A. L. Shaniavskii People's University and the Advanced Law Courses for Women. On April 22, 1911, a new university rector was to be elected by the council of Moscow University. Since February 1, 1911, Kamarovskii had filled in as temporary rector after the retirement of A. A. Manuilov, and it is certain that he would have been elected if fate had not been cruel to him. An absurd and tragic incident prevented him from becoming rector. Kamarovskii's daughter, Ekaterina Leonidovna, described the incident in her memoirs:

He was on his way to participate in the election [at the university], but because he was practically deaf in one ear, he did not hear an approaching tram and was struck by it. I vividly remember every detail of this incident and everything I experienced at the time. I have preserved numerous clippings from newspapers where this accident is described in detail. The election was postponed, and papa subsequently withdrew his candidacy on account of illness.⁴⁶

Kamarovskii never recovered from the tragic accident of April 22, 1911. Weakness caused by the trauma aggravated his chronic tuberculosis. On December 8, 1912, at the age of sixty-six, he passed away.

International law, Christian ethics, and the destiny of humanity

More than a hundred years have passed since Kamarovskii's death, but his thoughts on international law remain relevant. He understood that the future of humankind depends largely on its ability to establish a stable international legal order that will curb the egoistic ambitions of world powers, counteract the parasitism of states that exist by pitilessly exploiting other states, and support international peace. He believed that such a legal order could be established if international relations were grounded not only in the norms of international law but also in accord with the principles of Christian ethics. For Kamarovskii, "two fundamental duties incumbent upon nations in their relations with each other follow from Christian ethics: mutual respect and mutual assistance."⁴⁷ He explained that "the duty of mutual respect is deeper and broader than what internationalists usually mean when they speak of the right to honor and respect," inasmuch as this duty, being a moral principle, "does not depend on contractual agreements, and second, imparts greater force and meaning to them [contractual agreements]." He went on to develop this idea:

46 Grafina Kamarovskaia, *Vospominaniia*, in E. L. Kamarovskaia and E. F. Komarovskii, *Vospominaniia* (Moscow: Zakharov, 2003), 149.

47 Kamarovskii, "Khristianskaia pravstvennost' i mezhdunarodnye snosheniia," 816.

Nations, as collective persons, live in states, and the latter, by virtue of the aforementioned duty, must refrain not only from all acts infringing on the honor, rights, and interests of other states, both their official organs and their citizens, but from all acts which, although frequent in practice and not punished by formal law (still highly imperfect), are nevertheless *grave moral crimes, because they nullify the foundations of society.*

(816)

Kamarovskii had the following acts in mind:

- 1) Oppression of weaker nations or even whole nationalities by conquest, by disrespecting their just claims, or by treating them as a tool to achieve one's own ends, ends which are alien to them.
- 2) The desire, through envy or ill will, to impede the internal development of other states [by bribing foreign officials,]... by intrigues involving party leaders,... by encouraging the populace to rebel [against legitimate authority,]... by employing secret agents and instigators on foreign soil, [and so on].
- 3) Obstructing the development of peaceful relations among nations because of a false conception of one's own independence, or because of laziness or confused thinking.
- 4) Starting a war without having recourse to all peaceful methods [of resolving a dispute], especially adjudication of the case before a court of arbitration in order to resolve misunderstandings that have arisen between states.

Listing war as one of these crimes, Kamarovskii nevertheless made the following important qualification:

Given the imperfect conditions we live in, war is permissible as an extreme defense of the right of nations to independence and freedom. But from the point of view of pure Christianity and absolute morality, it goes without saying that war, especially between civilized nations, should never take place.

(817)

Kamarovskii's reflections here and elsewhere can be viewed as idealistic and even utopian, for human society is set up in such a way that all that is humane and good seems idealistic and utopian, whereas evil and cruelty seem to be objectively real. Evaluating Kamarovskii's contribution to the science of international law, Sergei Kotliarevskii wrote:

He introduced a humanitarian and idealistic tendency into the study of international law. He believed that destructive conflict and unbridled egoism cannot be the ultimate law of human society. Hence his firm belief in the gradual evolution of world peace. He bore no resemblance to the type of international law professor common in Germany, a type that ardently glorified war. At times, his idealism could seem almost strange in the context of

an international reality where the last word still belongs to force. When he collided with this reality, he became indignant and sorrowful, but he did not lose his faith.⁴⁸

Kamarovskii's ideas, while they appeared idealistic and utopian, were in fact the reflection of a genuine reality, albeit not the reality manifested in international crimes, military aggression, the hostile acts of one state against another, predations, and the use of state power to physically, economically, or culturally annihilate whole peoples. Kamarovskii's idealistic humanism was based on a deep understanding of the true nature of human society. This understanding led him to conclude that hostility between nations, devastating and destructive wars, the parasitic existence of some states at the expense of others—all these things serve to undermine the foundations of human society and lead humanity to ruin. Compared with these negative outcomes, Kamarovskii's ideas of universal peace and the construction of a world order based on legal and moral principles conform fully with the foundations of human civilization. These principles signify the real conditions under which human society exists—conditions that assure its progress and further development.

48 Kotliarevskii, "Neskol'ko slov pamiati gr. L. A. Kamarovskogo," 222–23.