

America and the Future of Multilateralism

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I. Introduction

The subtitle of the topic assigned to me contains an alternative proposition followed by a question mark: Creating world order through US power or multilateralism? This is supplemented by the words: Necessity and options for the 21st century. These introductory remarks grossly overstate the real significance of American power, probably under the impact of the easy victory the American armed forces achieved in Iraq. It is indeed easy for an army with such technological superiority as the US Army to crush enemy forces whose equipment dates back one, two or even three decades. But a military victory does not mean that dominance has been reached over the nation that was defeated on the battle field. If the victor is not able to win over the hearts and minds of the former enemies, the situation in the country where he has established his rule will remain unstable at best. The resistance of a whole people cannot be overcome as easily as a defence made up by artillery and tanks.

I have begun with these sinister observations in an attempt to show that the assumption underlying my topic is just moot. There is no real alternative between world order through US power or multilateralism. Even though today the US can safely be said to be the only remaining superpower, the actual power embodied in this notion remains fairly modest. As a civilized country committed to commonly shared Western values, the US is barred from resorting to the brutal methods the Romans used when they established their empire around the Mediterranean Sea. Thus, it cannot subdue foreign nations just by force and coercion if it fails to muster voluntary support.

II. The US – Architect of the World Organization

It is a matter of common knowledge that it was the US Government which, after the horrors of the Second World war, came to the conclusion that for the maintenance of international peace and security an international mechanism of cooperation was necessary, a mechanism stronger than the abortive League of Nations that had been unable to prevent the outbreak of the Second World War. It was the US that prepared draft proposals for the future UN Charter (Dumbarton Oaks proposals), and it was the US that convened the founding conference in San Francisco. No other nation put as much emphasis into the process. In other words, the multilateral system of the United Nations was not forced upon the Americans. On the contrary, a viable United Nations was considered to count among the prime objectives of a rational US foreign policy.

III. Progressive Distancing from Multilateral Mechanisms

While the US remained fairly well attached to the values of multilateralism as reflected in the UN Charter during the initial years of the World Organization, it started distancing itself from these cooperative structures first after the UN had become an organization made up predominantly of Third World nations, and more clearly after the demise of the Soviet Union as a rival of equal rank. It is certainly not just 9/11 which brought about the decisive shift from multilateralism as a political strategy to a definite preference for unilateralism. Many occurrences are indicative of this trend. We can only refer to a few of them.

For many years, the US dealt with its financial obligations towards the UN as a political bargaining chip, putting the UN under pressure for the most diverse demands and thereby pushing it to the brink of financial collapse. In the famous *LaGrand* case, when the International Court of Justice on 3 March 1999 issued an interim order enjoining the US to desist from executing Walter LaGrand (who had been sentenced to death) before the proceedings on the merits of the case had come to their conclusion, the entire governmental system of the US treated the judicial body of the World Organization almost with disdain, ignoring its demands and executing Walter LaGrand notwithstanding the order from The Hague. Anti-multilateralism reached another highpoint with the fight against the International Criminal Court. When in July 1998 the US failed to win sufficient support for its effort to shape the Rome Statute according to its perceived needs, it embarked on a frenzy of activities designed to divest the future International Criminal Court of any power vis-à-vis US citizens. Specifically in the field of arms control, the US has largely opted for going it alone. It has refrained from accepting the Comprehensive Nuclear-Test-Ban Treaty of 1996,¹ thereby frustrating its entry into force, it has rejected the Ottawa Convention Banning Landmines,² it has raised many obstacles to controls carried out within the framework of the Chemical Weapons Convention,³ and last but not least, in November 2002 it dismissed a draft protocol supplementing the Biological Weapons Convention with a review mechanism just at a time when it charged Iraq with producing such weapons. Unfortunately, other examples could be added to this list.

Of course, the event that now deserves the most careful attention is the invasion of Iraq by the American and British coalition forces. Although US Ambassador Negroponte, in his official letter to the President of the Security Council informing him about the launching of the offensive against Iraq, hinted that Article 51 of the UN Charter was one of the grounds justifying the military operation, it seems fairly obvious that Article 51 could not be invoked. According to the text of this provision, the right of self-defence arises "if an armed attack occurs". No such attack had been carried out by Iraq. Even on the assumption, shared by many writers, that some kind of pre-emptive or interceptive strike may be

¹ Adopted by UN General Assembly resolution xxx of 10 September 1996.

² Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (the 'Ottawa Convention'), 36 ILM (1997) 1507, entered into force 1 March 1999.

³ Convention on the Prohibition of Development, Production, Stockpiling, and Use of Chemical Weapons and on Their Destruction.

permissible to counteract an imminent aggression, the criteria of that extension of Article 51 were not fulfilled. And indeed, the attack was launched in implementation of the new National Security Strategy of 17 September 2002, in which the resolve was manifested to attack any target which the US, according to its own judgment, might view as a danger to its security. It is significant that the National Security Strategy does not mention the United Nations, nor the Security Council or Article 51 of the Charter.

IV. International Co-operation – a Structural Necessity

Yet, the need for international cooperation remains. A few weeks after its victory over the Iraqi army, the US felt the need to return to the Security Council in order to enlist the support of the UN for the reconstruction of the country occupied by the coalition forces. Resolution 1483 of 22 May 2003 provides the US and the United Kingdom with something which they could not obtain by their own efforts, namely a certain degree of legitimacy, which is likely to enhance the effectiveness of the process of regime change. More generally, it stands to reason that many other tasks of a transboundary character require international cooperation where the US may play a leading role but where it has to respect the other nations as equal partners. The environment is one of the examples where unilateral action within the territorial scope of just one nation can hardly be successful, in particular with regard to air and water. The same is true of the fight against international organized crime or international terrorism. Its invasion of Panama to arrest *de facto* President Noriega, charged with drug trafficking on a large scale, was one of the most damaging actions it has ever undertaken against a Latin American country. In an operation designed to apprehend just one person, hundreds of innocent people lost their lives. In sum, co-operation cannot be avoided, but remains one of the cornerstones of a peaceful world order.

V. Improving Multilateral Decision-Making

There is no denying the fact that many of the mechanisms of multilateral action are in need of improvement. But it should be emphasized that today the Security Council hardly qualifies as the addressee of legitimate criticism. Since the great change of the years 1989/1990, it has generally discharged its duties with a fair degree of responsibility. Responding to the invasion of Kuwait by Iraq in 1990, it immediately took action enjoining Iraq to withdraw its troops, eventually authorizing the coalition to use "all necessary means" for that end (Resolution 678 (1990)). In the following years, its handling of the Yugoslav crisis and of the genocidal situation in the region of the Great Lakes was less impressive. In recent years, however, its performance improved again to a considerable extent. After NATO's air operations against Yugoslavia, it did not hesitate to adopt a status resolution on Kosovo (Resolution 1244 (1999)). Reacting to the barbarous terrorist attack on the twin towers in New York and the Pentagon in Washington, it expressed the view that the US was entitled to take military action in the exercise of the right of self-defence (Resolutions 1368 and 1373 (2001)). And lastly, during the final stage of the ongoing deliberations on Iraq, no member State threatened any longer to make use of its veto power. The controversy was confined to the question of whether all methods available for detecting possible weapons of mass

destruction had been exhausted. To be sure, the record of the Security Council is not perfect. But in a collective body, disagreements about the right strategy, about time and place of action, are natural and even necessary. Hence, President Bush committed a grave error when commenting that the Security Council made itself "irrelevant" if it did not adopt a draft proposal put forward by the US before a deadline also fixed by the US.

And yet, improvements in the *modus operandi* of the Security Council should be sought since any proceeding of that body is overshadowed by a possible use of the the veto by one of the five permanent members. How such improvements can be reached, is an open question. Suggestions have been made to limit the veto power of any other member of the P5 than the US to specific regions of the globe. One may doubt, however, whether such allocation of different regions to a "patron" might be acceptable to Third World countries

VI. World Order Through Multilateral Institutions Supported by the US

Almost all multilateral mechanisms need the American contribution. No major military operation could succeed without US participation, and indeed the US has many times acted as the watchdog defending the common interest of humankind while other countries have remained inactive, preferring instead ostrich strategies. Who else – except perhaps for China – could seriously concern itself with the nuclear weapons programme carried forward by North Korea? To operate within multilateral frameworks carries at the same time great advantages for the US. Within the UN, it is able to block any initiative directed against its essential interests. On the other hand, just by the sheer fact of its political and economic power, it does play a leading role both in the General Assembly and the Security Council. This does not mean that any of its wishes will immediately be complied with. But if the US uses its strategic position not just exclusively for the promotion of its own selfish interests, but takes into account at the same time the interests of the international community, it can act as the helmsman who determines the course to be steered in world politics. Playing the card of multilateralism seems to be all the more important because the US can by no means be sure how long its superior factual might will last. The protection provided by fair legal rules, which are based on the principle of sovereign equality, should not be lightly sacrificed for the sake of short-lived gains.

VII. Concluding Observations

Hegemonic power presupposes respect for, and appreciation of, the hegemon, not just his factual superiority. In this respect, the US should proceed to a deep-going inquiry into the wave of anti-americanism which is currently present in the world. It would be too easy to put all the blame on an ill-defined hatred of the American way of life, of the ideas of freedom and democracy. As many other nations, the US should become aware of the fact that on many occasions its deeds do not match its words. In particular, the actors in the outside world are rarely measured against the same identical

yardstick. Germany has benefited enormously from the United States. Almost invariably, it has met with the best side of the US. Germans will never forget their liberation from the evil Nazi dictatorship, the famous visit of President Kennedy to Berlin just 40 years ago or the pro-active role which the US played during the process of reunification, contrary to the other members of the alliance which defeated Nazi Germany in 1945. But many other countries are haunted by unfortunate memories. Latin America has almost never been treated on a footing of parity, and the Arab nations rightly feel that Israel continues to receive far better treatment than is shown to them. It is such inconsistencies which badly affect the credibility of US foreign policy and which give rise to a cloud of mistrust. This is maybe the greatest impediment that limits the influence the US can exert in the world. Confidence and trust cannot be gained by military operations. They require consistent conduct that has as its guideline generally recognized parameters. Above all, human rights standards should never be lightly abandoned. In that regard, Guantánamo remains a dark stain badly blemishing the reputation of the US and calling into question its qualification as a world leader.