

[James Skillen gave a special lecture at Dordt College, Sioux Center, Iowa, on October 10, 2002, in celebration of the 25th anniversary of the Center for Public Justice and the Association for Public Justice. The following article is Dr. Skillen's expanded and revised version of that lecture.]

American Statecraft, The United Nations, and Iraq

Public attention is focused today on whether the United States will go to war with Iraq and the extent to which it will have international authorization and cooperation if it does so. The conduct of new weapons inspections in Iraq, mandated by the unanimous 15-0 vote of the United Nations Security Council (Resolution 1441) in early November, 2002, stretches the drama out into a daily soap opera. Behind this drama a more extensive revolution is taking place in international affairs, reflected in the Bush administration's new National Security Strategy (NSS), released last September. This strategy is an attempt to respond to a profound crisis in the United Nations (UN) system of international politics, a crisis that has been deepening since the end of the Cold War and the emergence of a new form of international terrorism. The kind of terrorism now being conducted by Islamic extremists represents a new and dangerous threat quite different from traditional military aggression. In the absence of an international means of guaranteeing security against such terrorism, the United States has responded since 9/11 with a major military build-up and a reorientation of its security strategy at home and abroad. Much of the philosophy behind the new American strategy predates 9/11 by at least a decade, however, and represents an attempt to position the United States in a world where the power balance has shifted dramatically and the critical weakness of the UN system has been further exposed.

Consequently, beyond the immediate questions about whether a U.S. military attack on Iraq can be justified and whether UN Security Council backing for it is essential, we must come to grips with broader, more significant questions about whether the new U.S. security strategy is sound and whether a new or improved system of international politics can or should be sought. Moreover, underlying both the narrower and the broader questions is whether the Christian "just war tradition" has any continuing validity and usefulness today as a guide for making judgments about these matters. If not just-war reasoning, then what?

Origins of the UN System

To begin to grasp the weight of what the United States and the world now face relative to terrorism and security, we must go back to the European Peace of Westphalia (1648). With that treaty, European rulers established their independence from both the Roman Catholic Church and the Holy Roman Empire. The Peace of Westphalia, "though consisting formally of a series of bilateral commitments, amounted in its aggregate to a multilateral network of legal obligations," according to F. Parkinson (*The Philosophy of International Relations*, 1977, p. 40). The treaty established a new basis for international relations that, in many ways, is still operative today. "It provided a watershed in at least three senses," says Parkinson. "First, it terminated the wars of religion occasioned by the Reformation; second, it finally reduced pope and emperor to the status of mere princes on a footing of equality; and, third, it legitimized an international order based on the existence of independent, sovereign states" (p. 44).

The emergence of independent states, each considered sovereign in its own territory, came about because of the breakdown of a larger legal and political community in Catholic Europe. In other words, the new states did not come from nowhere as already developed, separate sovereign entities, which thereafter began to establish contact with one another. No, the independence of princes from church and empire presupposed a great deal that was already common among them. As the old order disintegrated, most of the new rulers carried forward moral and legal standards, including the just-war tradition, which they inherited from the European community that had been fashioned by church and empire. Implicit in the new order, however, was a potential dilemma--a dilemma that became stark by the 20th century and is now codified in the Charter of the United Nations. On the one hand, Westphalia and the modern UN system represent *international* law and procedures mutually agreed to as binding on the separate states. On the other hand, the first principle of that international system is that each state is sovereign and thus not beholden to any superior authority. Consequently, if there is no sovereign authority transcendent to the sovereign states, then international law has only so much binding power as the sovereign states allow it to have. Without a transnational political authority, sovereign states will operate in a context of conflict and power balances that can tend towards anarchy.

World War I and World War II tragically demonstrated the danger of international anarchy to a degree never before imagined. In reaction to the horror of so much human destruction in these wars, the major western, imperial states tried to stabilize international relations and strengthen the means of settling international disputes peacefully. The United States was the major promoter of these efforts, as Fareed Zakaria explains:

America was the most powerful country in the world when it proposed the creation of an international organization, the League of Nations, to manage international relations after the First World War. It was the dominant power at the end of the Second World War, when it founded the United Nations, created the Bretton Woods system of international economic cooperation, and launched most of the world's key international organizations. For much of the twentieth century, America embraced international cooperation not out of fear and vulnerability but from a position of confidence and strength. ("Our Way," *The New Yorker*, Oct. 14 & 21, 2002, p. 76.)

Placed at the core of the United Nations was the Security Council, which was supposed to deal with security issues, dispute-settlement, and conflict-management in order to prevent a third world war. Yet, as we know, the first principle undergirding the UN Security Council is state sovereignty--the right of each of its five permanent members to veto any proposed resolution. (The permanent members are the United States, Great Britain, Russia, China, and France.) Consequently, when the post-World War II division between the Soviet Union and the United States quickly developed into the Cold War, the Security Council was essentially put on ice. NATO and Warsaw Pact alliances were pitted against one another for more than 40 years, determining the fate of the world militarily speaking and marginalizing the UN as a factor in international dispute resolution and peace keeping.

By the end of the Cold War, the relative power of all the permanent Security Council members except the United States had declined, while U.S. power had expanded exponentially. The United States through NATO is now providing the primary security force for Europe. The United States through its treaties with Japan, Korea, and Southeast Asian states is the security umbrella for the Pacific and much of Asia. The U.S. is in many ways, de facto, the international security lynchpin of the world. Furthermore, between the end of World War II and the end of the Cold War, more than a hundred new states, many created out of the collapsing European empires, joined the UN. The UN today, in other words, looks very different than it did at birth. States like France, Great Britain, and Russia still have the same Security Council authority that the United States has, despite their decline in relative power, and countries like Gabon, Qatar, Bhutan, and Togo have equal standing with every other state in the world in the United Nations General Assembly, despite their inconsequential power and authority in global affairs. Therefore, the UN system today, despite all of its claims to international authority, corresponds about as much to the reality of the world's power distribution and governance capacity as the international order immediately preceding the Peace of Westphalia corresponded to the political realities of that day.

International System Crisis

The distribution of political power and authority today, I am suggesting, is in many ways incompatible with the structure and aims of the UN system, so much so that we are faced with a crisis of international law and order more profound in some respects than the crisis that emerged with World War II and the loss of the European empires, and more profound than the crisis that gave birth to the Treaty of Westphalia. The United Nations does not represent states among which power is relatively evenly distributed and among which a political-moral consensus about international obligations is universally shared. James Traub reminds us that back in 1948, U.S. Secretary of State George Marshall predicted that "should there be 'a complete lack of power equilibrium in the world, the United Nations cannot function successfully'" ("Who Needs the U.N. Security Council," *The New York Times Magazine*, Nov. 17, 2002). Not only is there no power equilibrium in the world today, but the UN does not even represent a general consensus about the kind of political and legal systems its member states should have. Thus, with the rise of international terrorism, the UN has no independent ability to respond, and only those states that agree to coordinate national efforts to fight terrorism have any hope of doing so.

Describing these circumstances in this way helps to shed light on the problem of rogue states and states with very weak or highly unjust governments-- all members of the UN--where terrorists can hide and operate underground or where governments actually support them, as the Taliban supported Al Qaeda in Afghanistan. It is one thing for the relatively stable and democratic states of the U.S., France, and Japan to cooperate in trying to stop terrorists who might circulate within and across their borders, but how do the stronger states work with Pakistan, Indonesia, Georgia, Saudi Arabia, Sudan, Iraq, and North Korea to fight terrorism? None of these states may be supporting Al Qaeda officially, but if their governments either are too weak to fight terrorists or stand in strong opposition to the West, then what is the U.S. or any other terrorist-threatened state to do? Turning to the UN hardly makes sense in these circumstances. And perhaps it also makes little sense to respect the sovereignty of a state that appears to be one of the breeding grounds of trouble for others.

Why, for example, should the United States respect the corrupt and threatening regime of Saddam Hussein in Iraq simply out of respect for the abstract principle of state sovereignty when that regime appears to be a potential threat to U.S. interests and security? In fact, why should the U.S. work to uphold an unbalanced and relatively powerless UN system at all when the U.S., on its own, has the power to try to change the political disorder of Iraq and help make the world safe for democracy? Since the world has changed so much since the founding of the UN, why shouldn't the U.S. simply go its own way and use its hegemonic power for good, rather than restrain itself out of respect for a UN system that allows disordered regimes like Iraq's to have the same formal standing in the world that the U.S. has?

National Security Strategy--2002

The Bush administration's new National Security Strategy (NSS), which was long in developing (see David Armstrong, "Dick Cheney's Song of America," *Harper's Magazine*, Oct. 2002), answers many of the questions posed above by saying that, indeed, the time has come for the U.S. to be forthright and intentional about acting unilaterally, if necessary, to promote security and freedom in the world, even if its actions no longer square with the modes of international cooperation to which other countries have grown accustomed over the past half century. Yet it is not as if the NSS simply rejects the United Nations system and all international institutions and alliances. Rather, the NSS is grounded in the

principle of American state sovereignty, something the UN system affirms, and the NSS does aim to chart a realistic, internationally cooperative course in the face of the UN's weakness. However, the UN system is not central to the NSS, which conveys a different atmosphere. If the Cold War put the UN Security Council on ice for four decades, then the new crisis of terrorism and rogue states may give the U.S. reason to put that system on ice again.

What is especially striking about the NSS, however, is the fact that its argument does not follow a familiar *realist* course in contending that American security interests require it to act in its own defense by using its power for that purpose. Rather, the NSS reads like an *idealist* tract, calling for a new world order of freedom. The word "freedom" is never defined with legal and political precision, and that lack of precision allows it to be used to refer to many things, such as American independence and sovereignty; the ideal that Americans have of how people everywhere should live; the opposite of authoritarian regimes like that of Saddam Hussein; the target that terrorists want to destroy; and the content of the international order itself. The word "freedom" also allows the NSS authors--perhaps unconsciously--to transform the earlier UN-system dilemma of state sovereignty vs. international law into the dilemma of American hegemony vs. international freedom. The NSS presents freedom as a transnational mission, a supranational standard, and a world-historical spirit, to which the U.S. and other countries simply must subordinate themselves. President Bush puts it this way in the concluding paragraph of his introduction to the document:

Freedom is the non-negotiable demand of human dignity; the birthright of every person--in every civilization. Throughout history, freedom has been threatened by war and terror; it has been challenged by the clashing of wills of powerful states and the evil designs of tyrants; and it has been tested by widespread poverty and disease. Today, humanity holds in its hands the opportunity to further freedom's triumph over all these foes. The United States welcomes our responsibility to lead in this great mission.

This is freedom-idealism at its grandest. In this view, the U.S. is simply a servant of the universal cause that is now bringing about the final order of the ages. Everything, including sovereign states, should submit to it.

But how is freedom working out its will in history? The NSS presents freedom as simultaneously America's national interest as well as every person's and every state's birthright. The U.S. is the lead representative of freedom, and therefore what America does in the world will advance the freedom of all. What is good for the United States is good for the world because the vanguard of freedom is leading the world to its true destiny, to its triumph over all its foes. The NSS authors believe that a truly free international system will be one in which all states serve the same lord, namely, freedom. There is no higher transnational authority. Unlike the UN system, which allows tyrannical and unfree states to be members--all in deference to the first principle of state sovereignty--this new system must serve genuine freedom; and that is what freedom's leader, the United States, intends to accomplish. At the same time, however, the NSS makes it clear that freedom's mission puts the U.S. in the lead as global policeman of last resort; as freedom's single-nation security council; as the vanguard of freedom's global hegemony that has not yet been fully realized.

Support and Criticism of the New Security Strategy

The Bush administration's new approach is exactly right, says Tod Lindberg, writing in the Hoover Institution's *Hoover Digest* (2002, No. 4, "The Bush Doctrine"). The White House, says Lindberg, is "firmly aligning itself with Francis Fukuyama's universalist 'end of history' vision of the spread of the recognition by human beings of each other as free and equal." President Bush's speech at West Point last June, a forerunner to the NSS, "is nothing less than the founding document of a new international order with American power at its center and the spread of freedom as its aim." Lindberg even goes so far as to say that what President Bush "is now promoting with this liberty doctrine is not [just] a model. It is the answer and it is final." On the one hand, according to Bush at West Point, "America has no empire to extend or utopia to establish. We wish for others only what we wish for ourselves--safety from violence, the rewards of liberty, and the hope for a better life." On the other hand, as Lindberg happily explains, the President made this statement from a position of military strength and with "chilling implications": "America has, and intends to keep, military strengths beyond challenge--thereby making the destabilizing arms races of other eras pointless, and limiting rivalries to trade and other pursuits of peace."

In other words, the new world order of peace and freedom will be established and sustained by American preeminence. And this means, of course, that the way Lindberg, and perhaps the Bush administration, would resolve the dilemma of state sovereignty within an international system is by establishing only one state--the United States--as the world's only true sovereign. Or to put it another way, President Bush's security strategy amounts, in some respects, to an aim to reconstitute a pre-Westphalian international order, but in this case it will be the United States, not the Holy Roman Empire or the Roman Catholic Church, that will serve as the ultimate transnational security force and authority. But can this kind of reactionary aim bring about a truly forward movement in history? After a system of sovereign states has come into existence, and after those states have become increasingly intertwined through all kinds of international laws, can one state elevate itself to the position of supreme global authority because of its preeminent military power and hegemonic position in the world? Will the U.S. strategy truly advance freedom or lead only to a new form of imperialism that lacks genuine international legitimacy? Will it bring peace and freedom to the world or only the kinds of crises that brought down the Roman Empire, the Holy Roman Empire, and the Soviet Empire?

Back in 1648, the new Westphalian system made possible the emergence and development of relatively independent states, which gradually achieved more adequate systems of governance within their separate territories. This development was historically progressive not because of the ideal of state sovereignty in itself, but because norms of governance, of international diplomacy, of entrance into and prosecution of war, and of mutual recognition were generally acknowledged to be the premise of each state's own identity and responsibility. However, to the extent that state sovereignty became abstracted and elevated to first principle of the international state system, it undermined the potential of the UN, from the start, to serve as a genuinely *international* authority. Who needs an "international" body to remind the world that states of whatever kind ought to be sovereign? Sovereign states can bear their own witness to themselves. And a hugely powerful sovereign state can take care of itself without needing the UN's authorization or approval.

The problem inherent in the NSS becomes apparent precisely when the aim of enhancing U.S. sovereignty and security is joined to the cause of advancing freedom and democracy worldwide. A recent Brookings Institution Policy Brief (#109) on the NSS (written by Ivo Daalder, James Lindsay, and James Steinberg) points to the inner contradiction here that can produce charges of hypocrisy: "Which should take priority? Our [American] commitment to our ideals [like freedom]? Or a concern for our safety [national interests]? The Strategy offers no advice on how to answer these questions, and it does not seem to recognize the possible contradiction." For the sake of our security and the fight against terrorism, for example, the U.S. cooperates with and supports states that are quite unfree and repressive of their own citizens:

A national strategy that trumpets freedom in the abstract but subordinates it to counter-terrorism in practice opens U.S. foreign policy to charges of hypocrisy.... A policy that seems to say Americans will trade the freedom of others to secure their own safety hardly provides a stirring call to arms.

Even more troubling, the denial of human freedom feeds the problems of terrorism and failing states. In much of the Islamic world today, both the rulers and the ruled see the United States as buttressing authoritarianism rather than opposing it. That enables governments to avoid what the Strategy calls the "single sustainable model for national success: freedom, democracy, and free enterprise," and breeds anti-American (and anti-Western) sentiment among their citizens.

David Gardner makes this point as well, emphasizing the political despair in the Middle East over western support of tyrannical Arab rulers and over America's double standard of "seemingly indiscriminate support for Israel" ("Democracy is Just a Mirage," *Financial Times Weekend*, May 11-12, 2002):

For Arabs who watch daily the siege of Palestinian towns, villages and refugee camps, the wound is very real, and the US administration appears only to pour salt on it, by demanding an end to Palestinian violence rather than the Israeli occupation that prompts it.... [F]rom Algiers to Cairo, the reality is that Arab rulers get endorsement [from the West] for strategies of repression that lay waste to the entire political spectrum. Real liberals mostly get jailed. The middle class gets devastated or emigrates--and some of its sons, as we have seen, fly air liners into buildings to immolate civilians.

John Lewis Gaddis approaches the dilemma by looking at the way the NSS conflates the fight against terrorism with the fight against a rogue state like Iraq ("A Grand Strategy of Transformation," *Foreign Policy*, Nov.-Dec. 2002). Since both terrorism and rogue states are the enemies of freedom, the administration aims to take on both of them with one strategy that includes preemptive military strikes, if necessary. If a government like that of Saddam Hussein appears to be a threat to freedom, it is thus a threat to everybody, so U.S. action to change the regime in Iraq can be justified both as advancing freedom and as defending the United States, which is freedom's global leader. This is where Saddam Hussein fits in to the Grand Strategy, says Gaddis:

Iraq is the most feasible place where we [the U.S.] can strike the next blow. If we can topple this tyrant, if we can repeat the Afghan Agincourt on the banks of the Euphrates [referring to Henry V's victory over the French in 1415], then we can accomplish a great deal. We can complete the task the Gulf War left unfinished. We can destroy whatever weapons of mass destruction Saddam Hussein may have accumulated since. We can end whatever support he's providing for terrorists elsewhere, notably those who act against Israel. We can liberate the Iraqi people. We can ensure an ample supply of inexpensive oil. We can set in motion a process that could undermine and ultimately remove reactionary regimes elsewhere in the Middle East, thereby eliminating the principal breeding ground for terrorism. And, as President Bush did say publicly in a powerful speech to the United Nations on September 12, 2002, we can save that organization from the irrelevance into which it will otherwise descend if its resolutions continue to be contemptuously disregarded.

Traditionally, and even today, the actions of most states in the international arena are judged to be legitimate if each acts in its own interests and respects other states for doing the same. This is the balance-of-power system tied closely to a realist view of political power. Evil, injustice, greed, and self-interest can lurk anywhere, in every state, so each state should act without idealism, without subordinating its interests to some supposedly transnational good. Diplomacy is the preferred means whereby self-interested states should work to reach agreement on how to achieve their diverse and sometimes competing interests. When conflicts arise that are not resolved peacefully, then each state, following just-war

principles, has a right to defend itself. Insofar as the U.S. argues that it is simply looking after its own interests and protecting its own security, few states will object to it defending itself against outside threats.

However, if U.S. security is not immediately threatened, as is the case now with respect to Iraq, then an American decision to act unilaterally with military force to change the regime in Iraq cannot be viewed by other states as a legitimate act of self-defense. Instead, it is viewed as a self-aggrandizing act of U.S. aggression, which violates just-war principles as well as the principle of state sovereignty. A U.S. appeal to a transnational ideal of freedom to justify such an attack would appear in this case to be nothing more than a hypocritical cover for self-interested action. Instead of other states wholeheartedly joining the U.S. in its mission to serve freedom, they will be forced to recalculate how to protect their own interests in the face of what they will judge to be unilateral aggressiveness on the part of America. Consequently, writes Zakaria, countries around the world “will obstruct American purposes whenever and in whatever way they can, and the pursuit of American interests will have to be undertaken through coercion rather than consensus” (*The New Yorker*, Oct. 14 & 21, 2002).

The American dilemma, however, is that the UN’s means of trying to disarm a dangerous Iraq did not work in the 1990s. In fact, one can argue that the new UN Security Council Resolution 1441 came about only because the U.S. used its immense power to force the Security Council to act. And that suggests that the UN remains so weak in the area of peacekeeping that it can serve as little more than a pawn in the hands of its most powerful states, and especially of the United States. By means of its NSS, the Bush administration may believe that it is helping to bring about a new era of global peace and freedom and overcoming the weakness of the UN. But the means the U.S. chooses may teach and demonstrate the opposite of what it wants. The goal may be freedom, but if the means chosen to try to reach the goal include unilateral, preemptive military action, then the U.S. may be offering justification to other states to use preemptive force against neighbors in pursuit of their own interests. What may happen, as the Brookings Policy Brief says, is that “countries will embrace the preemption argument as a cover for settling their own national security scores, as Russia has already hinted at with Georgia.” The Brief quotes Henry Kissinger with approval when he says, “It cannot be in either the American national interest or the world’s interest to develop principles that grant every nation an unfettered right of preemption against its own definition of threats to its security.”

Therefore, as the Brief concludes, “until the administration can define the line separating justifiable preemption from unlawful aggression in a way that gains widespread adherence abroad, it risks seeing its words used to justify ends it opposes.” (A strong case for the legitimacy of a U.S. invasion of Iraq is made by Kenneth M. Pollack in *The Threatening Storm*, 2002.) Or to put it another way, if the U.S. is trying to establish a new international order different from that of the present UN system, it will have to convince many states that its rationale for preemptive military action is part of an internationally just system. Otherwise, the U.S. will simply be imposing its will when it wants to do so. And that may give other countries justification to do the same until the U.S. (as global policeman) stops them, or until some other empire (Chinese or European) becomes the new global hegemon and imposes its will where and when it wants to do so. This is the point William Galston makes, writing in *The American Prospect* (September 23, 2002):

What is at stake [in Bush’s leaning toward unilateralism] is nothing less than a fundamental shift in America’s place in the world. Rather than continuing to serve as first among equals in the postwar international system, the United States would act as a law unto itself, creating new rules of international engagement without the consent of other nations. In my judgment, this new stance would ill serve the long-term interests of the United States.... [Moreover], it is an illusion to believe that the United States can employ new norms of action while denying the rights of others to do so as well.

The inner dilemma of this new strategy is also illumined by Hendrik Hertzberg in a brief commentary:

There’s a contradiction at the heart of the Bush strategy. It implicitly recognizes that national sovereignty is in many ways an outdated and dangerous doctrine, one that must increasingly give way to other exigencies. Is the sovereignty of the Iraqi state to be valued more than the right of Iraq’s neighbors and the rest of the world to be reasonably free of the fear of being vaporized or sickened unto death by Iraqi weapons of mass destruction? Of course not. So the Bush doctrine, in spite of itself, recognizes the logic of something like ... world government. But its idea of world government looks very much like a benevolent American dictatorship--a dictatorship of the entrepreneuriat, you might say. (*The New Yorker*, Oct. 14 & 21, 2002)

Building a New International System

The crisis that is now upon us relative to terrorism, rogue states, American hegemony, and international relations is in part an outcome of the doctrine of state sovereignty, now elevated to the position of the first principle in international law and order but increasingly in tension with the very needs of international order. For the fact is that no state exists solely on the basis of its own sovereignty. The United States is hugely powerful and therefore more easily able to take independent action than can any other state. But the U.S. is not autonomously independent. Its security, its economy, its people, its air and water, and countless dimensions of its culture are tightly bound up with the security, economies, peoples, air, water, and cultures of other countries. This is where the demands of international justice and of just governance add up to much more than a call for freedom and state sovereignty.

Quite the opposite of using its position as world hegemon to try to reorder the world toward a “freedom” that only America can police, the U.S. should instead, I would argue, use its current power and authority to help bring about a stronger and more just international order that elevates international and transnational governance above state sovereignty as its first principle. States, in other words, ought to be acting as joint stewards of an international order of justice that transcends but at the same time depends upon and strengthens their limited territorial authority and power.

The present UN system does not represent this kind of order, and that is why, on the one hand, American hawks decry the debilitated UN and the weakness of allies and enemies alike to shape a just world. They want action, and they want to begin by having the U.S. bring down Saddam Hussein, the most evident symbol of everything that stands against freedom, democracy, and U.S. interests. But hawks haven't counted the cost of going it alone because they cling by faith to the myth of national sovereignty and to the conviction that America is freedom's chosen leader. Critics of the new Bush doctrine, on the other hand, decry the administration's unilateralism and its apparent movement toward imperialism. But their blind spot is in assuming that the UN system and international law as now constituted are solid and can continue to serve as a sound basis for international politics in the future, if the U.S. will only become more modest and cooperative within that system.

Neither of these approaches faces up to the existing global realities of international interdependence, rising terrorism, powerful rogue states, U.S. military preeminence throughout the world, and the crisis of the UN system. The UN, with its present structure, has not kept and cannot keep the peace or give order to the post-Cold-War and post-9/11 world. At the moment, the U.S. obviously has the greatest potential to do that, on the basis of its own sovereign power, whether or not it chooses to use the UN Security Council for its purposes. However, the U.S. cannot reorder the world entirely on its own. As the preeminent realist, Henry Kissinger, argues,

The United States must resist basing foreign policy on hegemonic power. Many of the problems affecting world order are not susceptible to solution by military means. History shows that sooner or later every powerful country calls into being countervailing forces. And at that point--and I would insist even now--the United States will not be able to sort out every international problem alone without exhausting itself physically and psychologically. (*Washington Post*, Dec. 12, 2002)

This is not to say that the U.S. should retreat from global responsibilities or lay down its power. The U.S. should not turn over its defense department to Kofi Annan or to the European Community tomorrow. An international power vacuum will not remain unfilled. The U.S. should, therefore, be working with as many allies as possible to design and help build an international order that establishes federal, transnational, enforceable law as its first principle, in place of state sovereignty, without undermining responsible governments and balances of power in the process. Nothing of this magnitude can be done quickly. Nevertheless, the U.S. should, quite openly, begin to direct energy and money to strengthening the principles of constitutional, representative, accountable, federal government above states as well as within them. With the cooperation of other states that support principles of constitutionally limited governments--including the rule of law, open societies, civil rights, and so forth--the U.S. should use its clout to include in these arrangements those states that shape themselves to these standards, somewhat like the European Union sets economic and political standards for entrance into the EU.

American preeminence is currently the only legitimate first principle in the minds of many Americans. However, most Americans, I believe, want their independence and American preeminence on the cheap--not at the cost of American lives, not at the expense of maintaining occupying forces all over the world, draining them of their wealth and making them the target of mocking disparagement even from allies. But pursuing a course of American unilateralism, alongside the fracturing UN system, will not last very long or go very far on the cheap. The cost of a global empire will be huge beyond imagining. As President Bush has learned and demonstrated by his actions, the old American option of isolationism no longer exists. The United States will henceforth be engaged in the world, thoroughly, intricately, and almost everywhere, whether its citizens want this or not. The only question is whether the U.S. will try to dictate the terms of the new world order in the name of freedom, or will instead work to help define a new international order under law that can eventually transcend even American sovereignty as well as the sovereignty of every other state.

Distinguishing the Fight Against Terrorism from War

One major step President Bush can take immediately to demonstrate that the United States does not intend to use its current military hegemony imperialistically is to distinguish clearly between the cooperative, multinational fight by police and intelligence officials against terrorism, on the one hand, and American actions of self-defense through military means, on the other. The terrorists who attacked on 9/11 were not the military force of a foreign government, even though we now know that the network of which they were a part has some military weapons and was, on 9/11, bound up closely with the Taliban government of Afghanistan. Moreover, in violation of every international convention on the use of force, the terrorists targeted, and continue to target, innocent civilians rather than American military forces. Given our government's responsibility to protect the innocent and to punish criminal and other unjust acts, the federal and state governments were certainly obligated to respond with the use of force if necessary, just as they did after the Timothy McVeigh bombing of the federal building in Oklahoma City and other recent acts of terror committed within this country.

The American government's responses have sought both to thwart future attacks by increasing domestic and international security and to capture and punish any conspirators who perpetrate terrorist crimes. Moreover, as soon as President Bush learned that the 9/11 attacks originated from the Al Qaeda organization, he was justified in holding the Taliban responsible for helping to bring the terrorists in Afghanistan to justice. As it happened, the Taliban refused to cooperate and even declared itself complicit with Al Qaeda. The U.S. was then justified, on just-war grounds, to declare war against the Taliban government in order to achieve what a legitimate Afghanistan government should have done, namely to eliminate the possibility of new attacks and to bring the terrorists to justice.

The judgments just made are grounded in the long-standing tradition of Christian political thought, called the "just war" tradition, which articulates conditions and criteria for the justifiable use of force. Legitimate governments, through their police and judicial systems and through their military forces, are obligated to protect the innocent and to punish those who commit unjust acts of violence. For this purpose, these governments may, and, at times, *must* use force. As Paul says in Romans 13, they do not bear the sword in vain. This obligation has nothing to do with a government putting itself at the service of a transcendent ideal of "freedom," but everything to do with establishing and maintaining justice insofar as possible. And the key to upholding justice is stable, accountable governments authorized to do so.

One consequence of the fact that the 9/11 attacks were spawned by Al Qaeda, whose cells had spread throughout many countries, is that the U.S. could not and cannot *by itself* punish or destroy (by military means) all of Al Qaeda or other terrorist organizations. For the U.S. to launch a war against all terrorists in all countries, without regard to the responsibilities of legitimate governments in many of those countries, would be to commit multiple acts of unjust aggression that would undermine rather than reinforce legitimate authority. And the entire just war doctrine depends on the recognition and exercise of legitimate authority. Why, for example, would the U.S. send its military after Al Qaeda cells in Germany, one of our allies in NATO, rather than seek the cooperation of the German government to bring the terrorists in Germany to justice? In fact, the U.S. has *not* launched a military assault on Germany but instead has asked for and received the German government's cooperation in tracking down terrorists.

What the U.S. has been doing for the most part in the fight against terrorism, in other words, is taking the lead in developing a *cooperative international police and intelligence campaign against terrorist conspiracies* by means of which all cooperating governments are working to find and punish terrorists. This, I would emphasize, is not war, but rather is cooperative international policing, and as such, it should be conducted in accord with domestic and international laws of criminal punishment for unprecedented conspiratorial acts of violence and destruction. Moreover, the U.S. is acting in this regard not as a global hegemon and not unilaterally, but as one among many states that wish to uphold law and order rather than permit or promote terrorist anarchy.

It would help us even more, says Lee Harris, if we would quit thinking that the Al Qaeda terrorists are at war with us. They are acting out of a zealous Islamic "fantasy ideology," akin to a form of "magical thinking," not out of the logic of a military strategy ("Al Qaeda's Fantasy Ideology," *Policy Review*, Aug./Sept., 2002):

When the Japanese started the Pacific war by bombing Pearl Harbor, it was not because Pearl Harbor was a symbol of American power; it was because it was a large naval base and the Japanese had the quite rational strategic goal of crippling the Pacific fleet in the first hours of the war.... The issue facing the U.S. [after 9/11, by contrast,] was not whether to accept or reject al Qaeda's political demands, which were nebulous in the extreme. Indeed, al Qaeda did not even claim to have made the attack in the first place! ... [W]e are fighting an enemy who has no strategic purpose in anything he does--whose actions have significance only in terms of his own ideology. It means in a strange sense, that while we are at war with them, they are not at war with us.... [For them] it matters not how much stronger or more powerful we are than they--what matters is that God will bring them victory.

Having said this, we find that the question of war does not evaporate altogether. As we've already said, the Taliban government was, in essence, a coconspirator in the Al Qaeda aggression, and the United States was justified, according to the principles of the just-war tradition, to defend itself and seek redress of grievance by war, if necessary and as a last resort, against such a government. Nevertheless, terrorist networks of the kind that launched the September attacks will ultimately be stopped, punished, and eliminated only if many strong and legitimate governments police their own territories and cooperate with one another to capture and punish terrorists. The fact that the U.S. is justified in launching a counter-offensive against the terrorists is precisely because it is a *legitimate government* obligated to protect its citizens from internal and external threats to life. The use of force against criminals, Mafia organizations, violent urban gangs, or foreign and domestic terrorists--none of whom have legitimate public authority--can be justified only by legitimate governments held accountable by their citizens and public law to fulfill precisely this kind of responsibility. The ultimate American responsibility in fighting terrorism or unjust aggression by other states, therefore, is to help strengthen, and to cooperate with, legitimate governments throughout the world so that terrorism can neither gain nor keep a foothold in any of their countries. No matter how powerful the American military is, if terrorists can find safe harbor in countries incapable of or unwilling to dislodge them, there will be no end to terrorism.

War may be necessary against a dangerous and outwardly aggressive regime, but that cannot be a simple extension of the fight (rather than "war") against terrorism. Therefore, the language of war should be eliminated from the cooperative,

international policing effort against terrorism, and the U.S. government and American media should be stressing the goal (and using the language) of “halting criminal acts of terrorism through the rule of law.” A true end to conspiratorial terrorism requires, for the most part, the kind of police and intelligence work that is the responsibility of governments within their own borders. This is not military work, and that is why the new U.S. Homeland Security Department will bear a domestic intelligence and policing responsibility, not a military responsibility.

This distinction takes us back, then, to the matter of weak and rogue states that are unwilling or unable to cooperate in a concerted international police effort to destroy terrorism. With respect to Iraq, the U.S. is certainly justified in worrying about Saddam Hussein and his potential military threat to the region and to the wider world. His is not a healthy, accountable, rule-of-law government cooperating in the fight against terrorism. Moreover, the UN Security Council has called for Iraqi disarmament many times, and an international coalition of military forces acted in justifiable military response to his attempt to invade Kuwait more than a decade ago. There is every reason, then, on just-war grounds, for the UN Security Council to have authorized the enforcement of its many resolutions calling for disarmament of Iraq’s weapons of mass destruction. The U.S. does not, however, have a just-war basis for independently using military force to bring down the Hussein regime. If weapons inspections and other UN-authorized actions are not sufficient to bring about Iraqi compliance with disarmament demands, the big question is whether the U.S. and its allies are justified to compel such disarmament, given the UN resolutions already on the books. This is a question I am not confident, at this moment, to answer with a definite “Yes” or “No” because the Security Council debate over its responsibility has not yet concluded. Regardless of the decisions that the UN Security Council and the U.S. make, however, the goal of enforcement may not be to take over the governance of another country by eliminating its rulers but rather should be to stop the threat of that government’s use of illegitimate force.

One of the major principles of just-war teaching is that the goal of justified warfare is peace, which means, among other things, a post-war situation in which legitimate governments can govern more justly and contribute to international law and order. Military victory over Saddam Hussein by itself will not produce an accountable and responsible government in Iraq, and an American take-over and occupation of every rogue state in order to try to reconstruct them not only is impossible but would also represent imperialism on a grand scale, not the advancement of sound governance and a comity of nations throughout the world. For this reason, the larger American and international effort toward Iraq, toward Palestine and Israel, and toward North Korea and other countries must be to restrain, contain, and deter aggression and to encourage the development of just governments that can cooperate in building a more just and accountable international and transnational order.

Conclusion

The Bush administration should radically revise its National Security Strategy to stress the U.S. aim of defending itself according to just-war criteria and of helping to build a more just international and transnational system of law and order. The American international security aim should be just governance by popularly accountable and constitutionally limited governments that cooperate in policing efforts against terrorism and in joint defense, whenever possible, against illegitimate state aggression. The American aim should not be to maintain global hegemony in the service of “freedom,” a goal that other countries will easily translate into an American pursuit of dominance for the sake of American interests.

The U.S., under President Bush and future presidents, should be publicly forthright about the crisis of the UN system and about the American aim to build a more just international and transnational system of governance that is not authorized or enforced by a single global hegemon. One concrete step the current administration can take to signal its seriousness about this approach is to quit conflating the fight against terrorism with war against dangerous or unacceptable governments. Working cooperatively on an international basis to police and stop terrorism should no longer be referred to as war, and talk about potential engagement in war should be couched in just-war terms rather than in pragmatic freedom-idealism terms. The crisis in Iraq currently dominates public attention, but the crisis between Israel and Palestine is potentially more serious, as is the conflict between India and Pakistan, the situation in North Korea, and the civil wars of Africa. These diverse circumstances will further reveal the crisis of the UN system and the potentially dangerous limitations of the new American security strategy. In the decades ahead, it will become increasingly apparent that a more just way of governing the shrinking globe is needed, a way that is at once realistic and just in the widespread distribution of power through constitutionally limited governments, and a way that is also internationally cooperative and moving toward accountable transnational federal governance. U.S. actions in the decades ahead can do much to help build such an order and much to thwart such an order. In either case, the demands of justice, as they have been articulated in the just-war and just-governance tradition, will not be silenced.

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