
PREEMPTIVE USE OF FORCE: A REASSESSMENT

Luncheon Remarks

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You are setting me a challenging task. During this conference, numerous intelligent contributions have given you intellectual nourishment—and now you are going to have a delicious meal. And I am expected to contribute some more? That is hard work—as President Bush said yesterday during a televised debate, hard work indeed.

All jokes aside, I will make some short remarks on an internationally important and very controversial issue. Preemption is nothing new. As early as the middle of the 19th century—the experts on international law know what I am talking about—the community of states accepted one thing: the right to self-defense does not start only upon the physical assault, the crossing of the territorial boundary of a sovereign state by an aggressor. Any preparation for war and the visible readiness of a state to resort to aggression already constitutes the right to self-defense.

I am quite willing to leave it to such brilliant experts as Professor Glennon to draw that line even further to the Charter of the United Nations and its Article 51. However, we all know [that] the knowledge of the past helps understanding the present—this is at least very often true. Is it also true for the issue of pre-emption? I do have my very personal doubts on that.

We are all educated people. We have our political experiences. Our entire socialization took place in a world based on two central pillars:

The first pillar is the sovereignty of the national state; it was built in 1648 by the Treaty of Westphalia, after 30 years of complete destruction of the European continent. Sovereignty—that also means no one intervenes in the internal affairs of the other.

The second pillar is the worldwide application of human rights; it was built in 1948, that means 300 years later—and . . . after the most barbaric destruction mankind has ever experienced.

Only a fool can ignore it: these two fundamental pillars of international law have a tense relationship. It is the special merit of the United States of America to have provided the mental stimulus for a resolution of potential frictions and the geographic home for a system of worldwide organizations, the most important of which was created for today's and tomorrow's world on American ground, the stronghold of freedom and democracy. I am talking about the United Nations with its special agencies, among them the World Bank, the International [Monetary] Fund, and the World Trade Organization.

A great legacy obliges, does it not? What does that mean in terms of pre-emption? Are our traditional ideas still useful? What is the issue of “sovereignty of the national state”?

Well, each European state—left to its own devices—is just too small and too weak to counter the present challenges of our security. The Europeans have only one choice: they can only serve their national interest jointly, [and] that means multilaterally. That is the central difference in comparison to the U.S. The U.S. always has two options to serve their national interest: unilaterally or multilaterally. They have the freedom—and [the] ordeal—of choice.

This is of substantial significance for today's world. I am not saying this because of the stupid gossip of the U.S. as the only remaining super power. Even this super power cannot “overexceed” its powers—as we can very well see at the moment.

Much more important is [that] the security of our citizens and peoples is nowadays not primarily threatened by war between states, by aggressions against our territories. Much more important is the threat of states that failed and of non-governmental activists—of terror.

The familiar defenses fail in the face of these threats. A very drastic example: deterrent [and] containment. We all know that from the East-West conflict.

But how to deter someone willing to kill others, willing to die himself—in the fanatic belief of living happily ever after, coddled by 70 virgins in paradise.

My conclusion is [that] we must realign our ideas of security, our politics, and our skills—both our civil and military skills. We must do that jointly as nations committed to the dignity and freedom of the individual. We have already started to do so, in each individual state and also in our joint alliance, NATO. We must not wait for the threat to come to us—it is far better to go to the source of crisis and conflict.

For this we need extensive skills—we need a political consensus between the world's democracies. Part of such consensus should be [that] we cannot abandon military skills, on the contrary.

Historic experience still teaches us [that] he who starts a military conflict must have good reasons to convince the world, at least in the long run. And one more thing: he who starts a military conflict has two options. Either his engagement is long-term and comprehensive—then there is a chance of success. Or the engagement is purely military and very short-term—this creates disaster.

On the level of international law this means we also need consensus on how the right to self-defense can be redefined. A good approach to this can be found in the resolution of the United Nations Security Council of September 12, 2001. We need a common idea, a common answer to what terrorism is, what terrorism aims at, how terrorism acts, and how to combat terrorism. The joint reaction of all civilized nations to the horrors of September 11, 2001, was a good beginning. Finally we need a common certainty and—even more important—a common policy. We must extensively and worldwide act against everything that signifies hunger and despair, overpopulation and lack of water and food, lack of education, culture and future prospects.

What we fail to do today will have to be settled by our children tomorrow. Therefore, we do have the power, we do have the ideas, we do have the responsibility for this future of freedom. ■

