

## HOW CAN THE VISION OF A “NEW WORLD ORDER” BE REALIZED?

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*The concept of a “new world order” needs to be more precisely and concretely defined. As a basis for this discussion, Alan K. Henrikson proposes the concept of “collective” intervention for peace and security as the foundation upon which to build a new order. He discusses ways of balancing “regional” efforts in the peace-and-security area with the central role played by the United Nations for peace enforcement.*

The challenge facing the world community in 1992 and beyond is to establish a system of collective action for peace and security that significantly increases the chances of avoiding another breakdown of order capable, like Iraq’s seizure of Kuwait in August 1990, of arresting the normal activities of most of mankind. The “old order” of rivalry and revenge should be succeeded by a “new order” of reciprocity and reconciliation. But if, in particular situations, such concord does not arise naturally, then international regulation (implemented by force if other means fail or are believed likely to prove inadequate) must be relied upon in order to assure peace and security among nations.

The emphasis in this essay is placed on finding and articulating the theoretical justifications—specifically, human rights-, security-, and environment-related rationales—that will enable the international community to intervene in timely and effective fashion, with military force if and as needed, even in what hitherto have been regarded as the privileged domestic-affairs domains of states. There should be no automatic shielding of malfeasance under national “sovereignty” any longer.

This idea, which challenges any too-restrictive reading of the United Nations Charter’s (Article 2, paragraph 7) non-authorization of UN intervention in “matters which are essentially within the domestic jurisdiction” of states, is not a radically new one. “In this era,” declares a Joint Statement authorized by the United States, Great Britain, Soviet Union, and the Republic of China at the 1945 conference in San Francisco that established the UN organization, “the whole international life of a country is affected by foreign conditions.” The corollary of this proposition, as formulated by Ernest A. Gross, a US State Department

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lawyer and delegate to the United Nations, is that "foreign conditions" likewise must be affected by the "whole internal life" of a state. "A state could hardly hoard its own sovereignty as a national treasure, yet claim the right to dip into its neighbor's stockpile."<sup>1</sup>

The historical progress toward world peace and security that should be made today may be seen to lie, it is here suggested, mainly in the field of prevention, that is, in *precluding* the very kinds of occasion for international enforcement action that required the formation of the League of Nations and UN peace systems in the first place. "We the peoples of the United Nations," the draftsmen of the UN Charter reflected in that document's preamble, expressed a determination "to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind." Such cognizance of history, it was considered, was vital to avoiding its repetition, i.e., a third world war. In order to see the way forward, it seemed, it was necessary constantly to look backward.

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Such retrospective steersmanship by statesmen—worrying about avoiding "another Hitler" when new and different problems everywhere were arising—is now well recognized as capable of being misleading. Political leaders, including President George Bush during the recent Gulf crisis, make effective rhetorical use of such historical comparisons in order to mobilize opinion.<sup>2</sup> No two situations are alike, if only because the preceding one—the memory of it, as well as the material consequences of it—can be a potent factor within the succeeding one. The Gulf war, rather than being a model for future dealings with ambitious and brutal regional dictators, has so altered the context for aggression and its containment, perhaps, that such a large-scale military effort never again will be required. That, surely, was part of the purpose of President Bush in demonstrating, with force, that Iraq's takeover of Kuwait would not stand.

To focus attention on the prevention of "another Iraq," a virtual replica of Saddam Hussein's transgression of August 2, 1990, could be to plan for the past. Recognizing that the situation in the Gulf region is not yet settled, and must still

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1. Ernest A. Gross, *The United Nations: Structure for Peace* (New York: Harper & Brothers, 1962), 114-15.

2. Alan K. Henrikson, "Conclusion," in *History, the White House and the Kremlin: Statesmen as Historians*, ed. Michael G. Fry (London: Pinter Publishers, 1991), 250-58.

be dealt with by the international community, one nonetheless may wish to ask: Is there not a way to "get ahead" of events, such as the continuing Gulf saga? To pose the question differently, can the Gulf crisis and others similar to it be responded to more constructively, by creating a general framework for coping with conflicts around the world—a framework that will apply to future situations other than specific ones which at present might be foreseeable?

Here the question of the practical realization of a "new world order" is addressed. How will it be possible to identify and to introduce elements of a *new* global order that would make it significantly different from the *old*, or restored, pattern of international relations? It should not be enough simply to restore the *status quo ante bellum* in the Gulf. The innovations here proposed, all of them arguably within the range of statesmanly accomplishment at present, involve: first, strengthening regional organizations; second, expanding the rule of law; and, third, creating new peace-enforcement and permanent peacekeeping capabilities for the United Nations. These things would be done for the *deterrence* of future aggression as an alternative, ideally, to taking defensive measures against aggression once it has started.

The remarkable and truly historic events of the late 1980s and the beginning of the 1990s have changed our assessment of whether or not a cooperative order of nations, including a workable regime for collective security, might be possible. The disappearance of the cold war dividing line between Eastern and Western Europe made a comprehensive resolution of many other international problems thinkable. As early as 1989 it was possible to contemplate a different order. For example, President Bush in a message to the American people on the eve of Thanksgiving Day, shortly before he was scheduled to meet Soviet President Mikhail Gorbachev off the coast of Malta ("the saltwater summit"), was moved to say: "We can now dare to imagine a new world . . ."<sup>3</sup>

The onset of the Gulf crisis in August 1990 set back, but it also advanced, the US government's policymaking with regard to the shape of the post-cold war world order. On September 11, 1990, while a military coalition was being formed under US leadership and UN Security Council auspices, the President went before Congress and outlined a larger vision. After restating the four immediate objectives of the United States regarding the Gulf problem (withdrawal of Iraqi forces from Kuwait, restoring the legitimate Kuwaiti government, securing and stabilizing the Gulf area, and protecting the lives of American citizens), he went on to espouse a further, broader, higher goal:

Out of these troubled times, our fifth objective—a new world order—can emerge; a new era—freer from the threat of terror, stronger in the pursuit of justice, and more secure in the quest for peace, an era in which the nations of the world, East and West, North and South, can prosper and live in harmony.

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3. Stephen Kurkjian, "Bush Hails Changes, Looks to Summit," *The Boston Globe*, 23 November 1989.

A hundred generations have searched for this elusive path to peace, while a thousand wars raged across the span of human endeavor. Today, that new world is struggling to be born, a world quite different from the one we have known, a world where the rule of law supplants the rule of the jungle, a world in which nations recognize the shared responsibility for freedom and justice, a world where the strong respect the rights of the weak.<sup>4</sup>

This notion of a "fifth objective," beyond the immediate and palpable objectives of the American-led international effort, was a "vision," President Bush explained, that he had shared with President Gorbachev when they recently met in Helsinki, on the 9th of September. Of his Soviet counterpart, Bush said: "He and other leaders from Europe, the gulf, and around the world understand that how we manage this crisis today could shape the future for generations to come." The "stakes" were high. "This is the first assault on the new world order that we seek . . ."<sup>5</sup>

The nucleus of the world ordering task is the problem of collective security—that is, how to strengthen international organizations, so as to increase their capacity for deterring, or otherwise dealing with, threats to peace and security. A "new world order" means institutions and procedures, as well as the actual state of the world to be desired. The two interpretations of this expression used by President Bush and others are different but complementary. The content of an orderly international arrangement depends on the methods by which the arrangement is achieved and by which it is maintained. And the system of decisionmaking relied upon in achieving such an arrangement depends, for its acceptance, on the equitable substance of the results.

Thus international ordering is, broadly speaking, a legal process. There are disadvantages as well as advantages in this. Most treaties, as records of past arrangements, are inherently static for this reason, if not actually backward-looking. In contrast, legal agreements that establish institutions, such as the UN Charter, are in a sense unfinished, and thus tend to be more dynamic and future-oriented. Because of this positive quality, the following discussion will be highly institution-based. The novelty in an emerging international system—a "new world order"—is increased by a deliberate emphasis on the arrangements that, because of the generative power latent within them, can create such a system.

### Strengthening Regional Peace-and-Security Efforts

Although since the Gulf war it has been the UN's peace-and-security role that has commanded the most attention, it may prove to be, in the long run, the

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4. President Bush, "Toward a New World Order," *US Department of State Dispatch* Vol. 1, No. 3 (17 September 1990): 91-94. The following discussion is based mainly on this text and quotations of his not otherwise identified are from this dispatch.

5. *Ibid.*, 92, "US-USSR Statement," 9 September 1990.

collective-security capacities of the world's various regional organizations or associations that are decisive. The basic reason for this speculation is the inherent regionality of many of the challenges to world security, making local action, by neighbors, the most appropriate.

These various regional bodies include today, most notably, the North Atlantic Treaty Organization, the Western European Union (WEU), the Organization of American States (OAS), the Organization of African Unity (OAU), the Association of Southeast Asian Nations (ASEAN), and, with particular relevance in the context of the continuing insecurity in the Gulf area, the League of Arab States and the Gulf Cooperation Council.<sup>6</sup>

Given the cessation of the Cold War, most future conflicts, like the vast majority of the violent conflicts that have taken place since the end of World War II, are most likely to be limited in geographical scope. Acting in accordance with the general purposes and principles of the UN Charter, many regionally-based organizations could do much more to prevent, contain, and reconcile conflicts within their respective regional spheres. The postwar hope was in fact that regional organizations would provide a buffer, containing aggressors and cushioning others from the effects of that aggression. This, in theory, would make great-power or UN Security Council intervention unnecessary, or at least less likely.

As the military strength needed to maintain regional security will be mostly in the hands of the major states of each region, their military power must be adequate to deter or repel aggression. At the same time, this military power should not be so great or unevenly distributed in a region so as to threaten the stability of a region and heighten anxiety there. Regional organizations therefore must take responsibility for providing, by a spreading of power and responsibility, what has been termed "equitable security" for all the states in such spheres.<sup>7</sup> Consistent with this concept, trained peacekeeping units could be set aside for regional, as well as for internal national use.

Conceivably, mutually supportive, even formally "interlocking," regional security arrangements—such as between NATO and the WEU or between the Arab League or some new Middle East security grouping, possibly including Israel—could be formed. Even linkages between organizations in different regions—e.g., NATO and the Gulf Cooperation Council—are imaginable.<sup>8</sup> The increased interdependence of the world's regions today, developing at the same time as internal regional integration, suggests the logic as well as the possible wisdom of closer mutual reliances.

The fact that the United Nations comprises these various regional bodies

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6. Of these, only the OAS, OAU, and Arab League generally are considered to be genuine "Regional Arrangements," in the sense of Chapter VIII of the UN Charter. The Arab League was established in 1945 just before the San Francisco Conference, which established the United Nations.

7. Brian Urquhart, "Learning From the Gulf," *The New York Review of Books*, 7 March 1991, 35.

8. Indeed, in 1957 an effort was made, at the instigation of US Secretary of State John Foster Dulles, to link up NATO and the OAS, not generally considered to be a security organization. *U.S. Department of State Bulletin* Vol. 38, No. 967 (6 January 1958): 3-12.

within a common juridical framework further implies their interconnection, as well as their affiliation with the United Nations itself. Chapter VIII of the Charter states in fact: "The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority" (Article 53, paragraph 1).

The United Nations' interest in regional action for peace and security was considerably heightened by the reality that, with the onset of the Cold War, the UN Security Council became veto-bound. In the aftermath of the Gulf crisis, which exhibited the possibilities and the need for more inter-organizational collaboration, the thinking that lay behind these original UN Charter regional provisions should be reactivated. It would be important, however, not to emphasize the role of NATO, the WEU, or some other organization to the extent that it pre-empted the central role of the universal body, the United Nations. The "dilemma of regionalism" is knowing how "to coalesce the parts without fragmenting the whole."<sup>9</sup>

### Expanding the Rule of Law to Permit Internal Intervention

No principle of international law is more basic than that of the sovereign equality of states, including the notion of sovereign control over territory.<sup>10</sup> Correspondingly, other states are denied the right to intervene or interfere in a state's affairs. In the preambular words of the UN Charter, "We the peoples of the United Nations" agree "to practice tolerance and live together in peace with one another as good neighbours." More bindingly, the Charter's Article 2, paragraph 4, stipulates: "All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations."

Beyond this, the United Nations itself, as noted earlier, is bound by Article 2, paragraph 7, with the significant exception of the application of enforcement measures under Chapter VII, not "to intervene in matters which are essentially within the domestic jurisdiction of any state." Nor shall the United Nations "require" members "to submit such matters to settlement under the present Charter." The tradition of noninterference in the internal affairs of states is a strong one.

State sovereignty, however, is not unlimited. By general and customary international law, such rights as innocent passage through territorial seas, freedom of navigation on the high seas, and the right of transit through international waterways have become recognized as qualifications of the territorial sovereignty of states. State responsibility for injuries to resident or visiting aliens and, in particular, for maintenance of the principle of diplomatic immu-

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9. Gross, *The United Nations*, 47.

10. Leo Gross, "The Peace of Westphalia, 1648-1948," in *International Law and Organization: An Introductory Reader*, ed. Richard A. Falk and Wolfram F. Hanrieder (Philadelphia: J. B. Lippincott Company, 1968), 45-67.

ity also inhibits the exercise of state power even within that state's own territory. The widespread acceptance of obligations in the area of human rights and the more recent assertion of a "law of the commons" also encroach upon traditional territorial sovereignty.

It has become increasingly understood that intervention by the international community, or even by individual states, upon the territory of states is not forbidden absolutely. Even the Article 2, paragraph 4, prohibition against force, it has been argued, "does *not* forbid 'the threat or use of force' *simpliciter*"; rather, "it forbids it only when directed 'against the territorial integrity or political independence of any State, or in any manner inconsistent with the Purposes of the United Nations.'"<sup>11</sup> That is to say, an intervention that does not annex any portion of the target state or deprive it of its political autonomy arguably is allowed by Article 2, paragraph 4.

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The enlargement of *exceptions* to the rule of territorial sovereignty and non-intervention could and perhaps should be permitted by international discussion and agreement, in increased recognition of the fact that events and actions strictly internal to a country can greatly increase international tension, and even jeopardize peace and security, throughout a region or across the world. What is proposed, therefore, is consideration of the international extension of the rule of law so as to expand the right of the international community to intervene, intercede, or assist. This would be done for constructive, well-explained purposes that do not involve a direct challenge to a state's basic territorial integrity or political autonomy. The emphasis, it should again be stated, is on *collective* intervention or intercession, by regional groupings of countries or by the international community as a whole—not by individual states, no matter how large or powerful or righteous.<sup>12</sup>

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11. Julius Stone, *Aggression and World Order: A Critique of United Nations Theories of Aggression* (Berkeley: University of California Press, 1958), 95, quoted in Richard B. Lillich, "A United States Policy of Humanitarian Intervention and Intercession," in *Human Rights and American Foreign Policy*, ed. Donald P. Kommers and Gilbert D. Loescher (Notre Dame: University of Notre Dame Press, 1979), 288.

12. Individual-state intervention is the emphasis of Lloyd N. Cutler, "The Right to Intervene," *Foreign Affairs* Vol. 64, No. 1 (Fall 1985): 96-112. Cutler favors a "right of counterintervention on the democratic side." That is, intervention would be warranted "only when two conditions exist: first, an indigenous pro-democratic insurgency is engaged in a civil war with the

An international right of intervention already has been asserted in the course of the Gulf conflict. The UN Security Council's Resolution 688, approved by a vote of 10-to-3 on April 5, 1991, called on all member states to contribute to humanitarian efforts in recognition of the plight of the Kurds inside Iraq. The wave of Kurdish refugees flowing toward neighboring Turkey and Iran was held to threaten "international peace and security."<sup>13</sup>

As *The New York Times* commented, the Security Council thus declared that "an ostensibly internal matter" posed a threat to the peace of others. The Kurds, though they may have lacked military support, "now have the law on their side." The *Times* editorial concluded: "Such *new world law* comes as a warmly welcome aspect of the new world order." In effect, the needs of a *people* took precedence over the wishes of a *state*.

Some international leaders, including French Foreign Minister Roland Dumas, have suggested the existence of a *duty* to intervene. Just as Nazi Germany's murder of Europe's Jews brought about the concept of a "crime against humanity," Dumas reportedly has said, so Saddam Hussein's mistreatment of Iraq's Kurdish population argues for recognition of a "duty to intervene" to prevent gross violations of human rights.<sup>14</sup> In the present crisis, international cooperation, verging on domestic intervention, has been conducted largely on an ad hoc basis. Cannot rules to guide—and control—intervention in the future be defined? As this wording suggests, the purpose of such definition would be to circumscribe interventionist collective action as well as



("security intervention"); and intervention to block or contain the release of materials causing severe and wide damage to the climate, landscape, or seascape ("environmental intervention").

One definition of humanitarian intervention that has been offered describes it as "the proportionate transboundary help, including forcible help, provided by governments to individuals in another state who are being denied basic human rights."<sup>15</sup> Humanitarian intervention can be conceived of narrowly, in connection with the defense of certain, limited, well-specified "human rights,"<sup>16</sup> or more broadly, with regard to situations that jeopardize human welfare or society in a general, indiscriminate, and pervasive way. Similarly, it can be restricted to cases of deliberate and systematic persecution, by governments or their agents, of particular racial, ethnic, religious, or other groups, or it can be widened to encompass instances of large-scale violence that occur irrespective of government policy or action—when, for example, there is a breakdown of central authority or in national cohesion itself.

That Iraqi behavior during the Gulf crisis has violated humanitarian norms was recognized implicitly, if not explicitly, by the UN Security Council virtually from the beginning of the crisis. Resolution 670 (September 25, 1990) and Resolution 674 (October 29, 1990) reaffirmed that the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War of 1949 "applies to Kuwait" and that Iraq, as a high contracting party to this, "is liable under the Convention in respect of the grave breaches committed by it, as are individuals who commit or order the commission of grave breaches."

Collective assessments as to whether particular situations are fit for humanitarian intervention must be, by the very nature of the diverse world and its history, somewhat ad hoc. "In the end a decision whether and how to act in the cause of human rights is a matter for informed and careful judgment," as Cyrus R. Vance cautioned while he was US Secretary of State. "No mechanistic formula produces an automatic answer."<sup>17</sup>

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15. Fernando Tesón, *Humanitarian Intervention: An Inquiry Into Law and Morality* (1988), 5, quoted in *International Human Rights*, ed. Frank Newman and David Weissbrodt (Cincinnati: Anderson Publishing Co., 1990), 547n.

16. The basic statement of these is the Universal Declaration of Human Rights, adopted by the UN General Assembly on December 10, 1948. The human-rights treaties to which the United States has become a party and those which it has signed but not ratified (as of February 1990) are listed, and briefly discussed, by Newman and Weissbrodt, *International Human Rights*, 400-5. The Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the UN General Assembly and signed by President Harry S. Truman in December 1948, finally was ratified by the United States, with certain reservations, in November 1988. For a recent broad assessment, see David P. Forsythe, "Human Rights in a Post-Cold War World," *The Fletcher Forum of World Affairs* Vol. 15, No. 2 (Summer 1991): 54-69.

17. "Law Day Address on Human Rights Policy," delivered at the School of Law, University of Georgia, 30 April 1977, appendix in Kommers and Loescher, eds., *Human Rights and American Foreign Policy*, 309-15. Vance was speaking of humanitarian action in general, not specifically of forcible action. Secretary Vance's statement is reminiscent of Sir J. Fischer Williams' even more graphic dictum (1934): "Men cannot expect to have something in the nature of a mechanical guillotine which will do automatic execution." Quoted by Julius Stone, *Aggression and World Order*, 82n.

A collective right to intervene, with military force if necessary, to prevent or to arrest the use of chemical, biological, or nuclear weapons even if the use of such weapons of mass destruction be confined entirely within the territory of a state would represent a further considerable extension of the scope of international law. The new and growing interest of the world community in strong action against the use of such mass-destruction weapons is unmistakable.

It seems clear that, as a political and also a moral reality, any effort to justify forcible intervention by the international community against the threatened or actual use of mass-destruction weapons by a single particular country, such as Iraq, needs to be supplemented by continued, wider, and successful efforts at arms control.<sup>18</sup> Although the issues of security intervention and arms negotiations are distinct, they are mutually dependent. To require one country to disarm when its neighbors and others do not is inequitable; and, furthermore may result in dangerous imbalances of power.

Countries that have become parties to the 1968 Treaty on the Non-Proliferation of Nuclear Weapons (NPT), in particular, must adhere to its terms in order to maintain a normative presumption against increased world armament. All countries, including Iraq, that have accepted the safeguards commitments of the International Atomic Energy Agency (IAEA) have joined in an international regime that, in theory and also to a remarkable degree in practice, binds them in their behavior, even in their internal behavior. Overt violation or covert disregard of IAEA safeguards agreements, when detected, is certainly an "alert" and might well be considered *prima facie* evidence of danger by other countries (if not necessarily *to* them). A nation that is not bound by the various existing arms-control treaties or agreements such as the one imposed upon Iraq, especially if a majority of the world's nations are full and conscientious adherents to present accords, bring strong suspicion on themselves, perhaps warranting international scrutiny.

The most conceptually novel, though not historically unprecedented, kind of international intervention in internal affairs that might be justified—and seen to be appropriate in the present Iraqi case—would be helpful intercession, and perhaps even forcible intervention, for the purpose of stopping serious damage to the environment, *within* as well as beyond national boundaries. All territory, on this theory, would be subject to inspection by others and possibly even defense by them.

Against an extreme "sovereigntist" view that countries have the absolute right to use, or misuse, national resources within their own borders as they wish,

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18. "Disarming the Gulf," *The New York Times*, 2 March 1991. Observing that years of "indiscriminate arms sales" helped cause the Gulf war, the *Times* urged the United States, Soviet Union, and the coalition partners to "curb their own commercial instincts." Specifically, the editorial proposed: registration of arms sales with a (UN-sponsored) "international clearinghouse"; the restarting of U.S.-Soviet talks regarding conventional-arms transfers, with other major suppliers included; curbs on "the most advanced weapons of all sorts," not just nuclear and chemical; and the extension of economic aid to Eastern European and Third World arms-selling countries as an "incentive" to induce restraint and also to convert armaments factories to civilian production.

the principle that one must use his own property so as not to injure that of another (*sic utere tuo ut alienum non laedas*) has found general acceptance. Principle 21 of the landmark Stockholm Declaration, adopted at the United Nations Conference on the Human Environment in 1972, affirmed that countries have a "sovereign right to exploit their own resources pursuant to their own environmental policies." It also declared, however, their "responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction." Owing to the dynamic and boundaryless commingling of elements within the environment, this responsibility not to damage others implies an obligation of strict internal control—containment of harmful emissions at their source.

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The environmental consequences of the Gulf crisis—the oil spills and fires caused by Iraq—surely are of a magnitude to warrant international action, including sanctions and the demand for reparations to the injured parties.

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The failure of countries to perform this responsibility could lead to international action being taken against them, but the acceptance of liability for and the payment of compensation for any environmental damage caused are not enough. States are, in addition, duty-bound to avoid causing permanent or profound ("irremediable or noncompensable") damage. They are obliged to publicize dangerous activities (even if "otherwise lawful") well in advance of their occurring or at least before their effects diffuse.<sup>19</sup> They further are required to agree promptly to adjudication, arbitration, mediation, or some other recognized and effective dispute-settlement procedure.

States, other than the offending (or target) state, realistically and reasonably *anticipating* even if not actually experiencing environmental harm to themselves, may have a basis for taking preventive, self-protective action. Other remedies, of course, should be exhausted first, time and circumstances permitting. Arguably, direct action could be taken even in the larger interest of the

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19. This certainly would apply to the April 1986 Chernobyl disaster, the occurrence of which the Soviet government did not even confirm until virtually forced to do so by foreign monitoring and reporting. The Soviet official attitude, afterward, changed markedly. "Our work is open to the whole nation and the whole world," Mikhail Gorbachev later wrote. "There are no vested interests that would compel us to conceal the truth. The Soviet leadership was directly involved in the efforts to cope with the aftermath of the accident. We regarded it as our duty to the people and as our international responsibility." Mikhail Gorbachev, *Perestroika: New Thinking for Our Country and the World*, new, updated ed. (New York: Harper & Row, 1987), 221-22. Noteworthy here is the explicit recognition of a responsibility to the international community for dangerous peaceful nuclear activities in the USSR.

wider international community, even though some parts of the world's population may not in reality be harmed by a particular environmentally damaging event. The potential effect "felt," sympathetically, may warrant general involvement in the forms of protest, prevention, protection, and, if and where appropriate, also in punishment.

This admittedly bold doctrine further suggests that a strong international interest justly could be asserted, as especially might be the case if the target state has a very large territorial area or is located in a remote ocean expanse, and therefore environmental injury to neighbors might not immediately be done. The environmental consequences of the Gulf crisis—the oil spills and fires caused by Iraq—surely are of a magnitude to warrant international action, including sanctions and the demand for reparations to the injured parties. The UN Security Council's Resolution 687 in fact holds Iraq responsible for the environmental damage caused by the destruction of Kuwait's oil facilities, and mortgages a part of Iraq's oil revenues to pay for it.

Here, as also in the humanitarian sphere, a possible "duty" to intervene arises when forces are available, and prompt and effective action is possible. All law and ethics are, to some degree, situational. Could not the UN Security Council's warrant "to restore international peace and security to the area" (Resolution 678) encompass the imposition of environmental stability as well as political tranquility?

### Creating UN Peace-enforcement and Peacekeeping Capabilities

Taking as a starting point that there now is a broad consensus on the need for an international capability to deter, to contain, and to reverse aggression with military force, the best and only alternative to national action (e.g., by the United States) is the prior organization of *multilateral* forces, including military forces, for the restoration and maintenance of peace under the direct administration of the United Nations. "One Iraq is enough," it has been said; "no country can any longer afford to be the world's policeman." The cost of single-country-led global pacification, if borne alone or even by only a small group of powers, could make future peace-enforcement action improbable.

Without a high degree of international cooperation, in financial "burden sharing" as well as in providing and equipping the fighting forces needed, another demonstration of the world community's willingness to resist aggression thus might not ever be possible. With such cooperation, conceivably, such an effort might be less necessary. Certainty, efficiency, and alacrity of response might substitute to some degree for the large scale of action previously entailed. One "lesson" of the Gulf war, as Stanley Hoffmann has expressed it, is that "an ounce of prevention is far better than a ton of punishment."<sup>20</sup>

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20. Stanley Hoffmann, "Avoiding New World Disorder," *The New York Times*, 25 February 1991. Hoffmann urges, especially, "collective action" to curtail arms sales and to settle disputes by diplomatic means.

In the UN Charter, it will be recalled, it is stated that "We the peoples of the United Nations" are determined "to unite our strength to maintain international peace and security, and to ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save *in the common interest*" (the Charter's preamble, emphasis added). In order to carry out this first purpose of the United Nations, the members of the organization further agreed "to take effective *collective measures* for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace" (Article 1, paragraph 1, emphasis added). The thought that the United Nations itself would take action to preserve peace was paramount in the minds of admirers of that organization.

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The instrumentalities that would constitute an effective UN military mechanism might include the following: a Standing Reserve Peace Force, a Rapid Response Peace Force, and a Permanent Peacekeeping Force.

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The measures provided for included economic and other sanctions; "complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations" (Article 41). If the Security Council considers that Article 41 measures are inadequate, "such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security," could be taken (Article 42). Chapter VII also allowed for the making of "a special agreement or agreements" by the Security Council with individual UN members or groups of members for the provision of armed forces, assistance, and facilities (Article 43). Considerable high-level thought now is being given to exactly what arrangements Article 43 might involve, particularly the military-command arrangements implied by it.<sup>21</sup>

A future UN-based comprehensive multilateral security arrangement that would be capable of truly justifying the "new world order" appellation would

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21. The US Permanent Representative to the United Nations, Ambassador Thomas R. Pickering, has stated: "In my view '43' agreements are not incompatible with signatories' exercise of wide military latitude when those agreements are invoked. In this sense the agreement might be less a format for direct [Security] Council control than an expression of its general capacity to enforce decisions and hence a means of deterrence. In fact, agreements with powerful members or groups of members might have a psychological impact similar to a classic mutual assistance pact, strengthening respect for decisions under Article 39 (power of recommendation), 40 (provisional measures) and 41 (embargoes, diplomatic and other sanctions) and, by extension, for statements of the Secretary General or the Council President." "The UN Contribution to Future International Security," personal remarks by Ambassador Thomas R. Pickering, Conference on Naval Expeditionary Forces and Power Projection: Into the 21st Century, Cambridge, Mass., 20 November 1991.

seem logically to require an actual, formally constituted UN military capability, directed by the (long-ignored) Military Staff Committee (MSC). This body, according to Article 47 of the Charter, nominally consists of the Chiefs of Staff (or representatives thereof) of the permanent members of the Security Council, with non-permanent members being capable of being invited along when "the efficient discharge of the Committee's responsibilities" requires such participation. The MSC is to be "responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council." (The "command" arrangements were left to be "worked out subsequently.") With authorization by the Security Council and after consultation with "appropriate regional agencies," the MSC was empowered also to establish "regional sub-committees"—which indicates how global and regional peace enforcement could be formally coordinated. An ever-present obstacle to effective use of the UN Military Staff Committee is, of course, the possibility of the use by a permanent Security Council member of a veto (Article 27). Even with the end of Cold War hostilities, and despite strong public opinion pressures against such use, it cannot be assumed that obstructive vetoes never again will be employed.

The instrumentalities that would constitute an effective UN military mechanism might include the following: a Standing Reserve Peace Force, a Rapid Response Peace Force, and a Permanent Peacekeeping Force. These would be supplementary, it hardly needs to be emphasized, to the United Nations' pacific-settlement, or mediation, activities and to its increasingly important economic and social work.

The Standing Reserve Peace Force would be a standing military reserve of national components maintained within the military establishments of individual countries but designated, or earmarked, for possible UN service. This combined provisional force would be large and powerful enough—with, say, 500,000 troops equipped with modern weapons—to deal with all but major international aggression, possibly involving nuclear weapons and conducted at the superpower level. There would be preplanned logistical support, at various places around the world, for the Reserve Peace Force as well as advance agreement on joint command. These arrangements, of course, would be modified as necessary in view of the identity of the state(s) or other parties against which enforcement measures would need to be taken.

The rapid-response component of the UN Peace Force would be smaller, more centrally organized, and more tightly ordered, probably under direct UN command. It, too, would consist of national units, but its troops would be tasked primarily for UN missions, and available for them on short notice. Needing to be well-equipped and well-trained, it could be an interposition force, sent to unstable areas—e.g., along violently disputed borders—to demonstrate the international community's physical as well as moral resistance to aggression. The units might be stationed, as necessary and advisable, outside the home territories of the countries which provide the troops and equipment.

A Permanent Peacekeeping Force would be primarily a collective "conflict control" instrument established, *permanently*, under UN authority and com-

manded by UN Military Staff Committee-appointed officers. Both the commanders and the troops of the UN Permanent Peacekeeping Force, probably volunteers, would be drawn from the national services of UN member countries. The inner component of the Peacekeeping Force would be centrally maintained, at UN expense, and perhaps also "centrally" based, at various locations determined by the Security Council and Military Staff Committee in consultation with the contributing countries and host countries and others involved. Training for peacekeeping service (normally non-armed) would be conducted not only by the Permanent Peacekeeping Force itself, but also by the cooperating national military establishments around the world.

As a former UN official with long experience in peacekeeping matter, Sir Brian Urquhart, argues: "Peacekeeping units should be regarded not as an abnormal expense but as a routine and indispensable feature of the 'new world order.'"<sup>22</sup> A UN Peacekeeping Force, rather than being used after the fact for cease-fire monitoring, ought to be employed, before the fact, for crisis prevention and confidence building. Not only large-scale aggression but also perhaps dramatic "unconventional" threats, such as aircraft hijackings, might be monitored and even dealt with centrally, with the United Nations playing, relatively, a much more prominent, active, and decisive role.

"In places where the danger of conflict is imminent, such as parts of the Middle East today," as Urquhart advises, "the Council should deploy peacekeeping missions to report on the situation and try to contain it while diplomatic and pacific solutions are being sought." Here, a link to peace enforcement, such as a Peace Force, could be formed. "If these peace-keeping efforts fail," he adds, "they should have the function of a tripwire which would set in motion, after suitable warnings, pre-planned enforcement action under Chapter VII of the Charter."<sup>23</sup>

The formation, through the preparatory work of the UN Security Council and its Military Staff Committee, of a true composite *system* of enforcement and deterrence, along with "a general agreement that in certain prescribed circumstances enforcement measures would come into play," should provide a strong deterrent to future aggression and may be able to deal firmly with threats to the peace. This would be "a giant step forward from the belated and improvised steps to which the United Nations so far has been limited," including UN-authorized coalition action during the Gulf crisis. But such institutions and procedures only can work if governments, especially the powerful ones, "genuinely accept, and cooperate in," the conversion of both the military *and* diplomatic systems into "a system of common security."<sup>24</sup>

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22. Urquhart, "Learning From the Gulf": 37. He suggests, interestingly, an expansion of the possible sources of funding for UN peacekeeping: "Different methods of financing peace-keeping forces—including subventions by large multinational corporations and other interests that benefit from peace-keeping—should be urgently studied."

23. *Ibid.*: 37. Urquhart suggests that "if a peacekeeping operation gets run over by a government," as for example did the peacekeeping forces in South Lebanon in 1982, the mandate of the peacekeeping operation automatically should trigger collective action by the Security Council.

### Conclusion

The "hegemonic" leadership of a single especially powerful country—the United States, now allegedly enjoying its "unipolar moment"—is an idea that also has its proponents.<sup>25</sup> As President Bush stated in his September 11, 1990, speech to Congress: "Recent events have surely proven that there is no substitute for American leadership."<sup>26</sup> Although increasingly dependent upon other societies not only for their support but also for their cooperation, the United States does have a unique world role. It has influence even greater, perhaps, than its power—though that, too, was demonstrated in the Gulf crisis.

The critical question, previously posed, is whether a US-led international enforcement action ever could be repeated. The costs of realizing even the present opportunity for "new world order" will be staggering.<sup>27</sup> The prevailing sentiment in the United States therefore seems to be: "One Iraq is enough." Consequently, the challenge facing the United States and the rest of the world community must be to establish a system of potential collective action for international peace and security that sharply increases the chances of *avoiding* a breakdown of local, regional, or global order, such as the Gulf crisis represented.

This essay has given practical consideration to forging new instruments of collective peace action: a large Standing-Reserve Peace Force, a smaller Rapid-Response Peace Force, and a specially trained Permanent Peacekeeping Force—all operating under the authority of the United Nations. As supplements to the traditional means of dispute settlement through legal and diplomatic action, these instruments could become capable of arresting major violence as, or even before, it occurs in troubled places around the world. Even without a prior consensus on the theoretical purposes of intervention, a majority of nations both large and small, more conscious than before the Gulf crisis of the danger of aggression, should see the wisdom in having a full system of protection in position. Had such a preventive system existed in the summer of 1990, the tragic Gulf war might never have occurred.

President Bush's global vision, already in part concretely formed by his actions during the Gulf crisis and in the humanitarian-relief crisis which followed inside Iraq, will be given further shape by future events. The problems there and elsewhere, such as Yugoslavia, that follow from any massive military

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24. *Ibid.*: 37. Cf. *Common Responsibility in the 1990's: The Stockholm Initiative on Global Security and Governance* (22 April 1991), which proposes establishment of "a global emergency system." This would include, *inter alia*, the establishment of "permanent political offices in key regions."

25. Charles Krauthammer, "The Unipolar Moment," *Foreign Affairs* (America and the World 1990/91) Vol. 70, No. 1 (1991): 23-33. He makes the major concession, however: "No doubt, multipolarity will come in time" (p. 23).

26. Bush, "Toward a New World Order." Well before the Persian Gulf crisis, a qualified form of this proposition was developed by Joseph S. Nye, Jr., in *Bound to Lead: The Changing Nature of American Power* (New York: Basic Books, Inc., 1990). As he later epitomized it: "We cannot police the world alone, but if we do not take the lead, others are unlikely to do so." Joseph S. Nye, Jr., "No, the U.S. Isn't in Decline," *The New York Times*, 3 October 1990.

27. Leonard Silk, "The 'New Order' Is a Tall Order for the U.S.," *The New York Times*, 17 March 1991.



effort are the predictable ones of relief, reconstruction, and rehabilitation. Without such an expansive concept of what needs to be done, the notion of the "new world order" would not be complete. It ought to deal with pressing economic and environmental problems along with military-political ones.<sup>28</sup> Collective peace-enforcement, even if in the future more directly controlled by the United Nations itself, is likely to generate chaos as well as order. These negative effects, compounding existing problems, must be anticipated and compensated for, in a major effort of international construction and prevention.

"The next few years," as the US Permanent Representative to the United Nations, Thomas R. Pickering, once observed in an address at The Fletcher School of Law and Diplomacy, "seem destined to be one of those liquid, elongated moments when the dissolution of an old order is apparent but the outlines of its successor are unknown and yet broadly malleable." He noted that it was possible for the students of international relations he was addressing to become "builders" and at the same time to remain "dreamers, with no censorious tag of naïveté." As he reflected, "Even more than Acheson and his generation, you are present at the creation of a new international system."<sup>29</sup>

The outbreak and the outcome of the Gulf crisis, while initially a severe setback on the road to this new international system, or new world order, could yet result in a significant advance toward that goal. This broad objective was well in view of the world community before the Gulf crisis and Iraqi civil war. It should be kept in sight, however clouded the Middle Eastern sky has been. The historic opportunity afforded by the end of the Cold War, in its basic global parameters, still exists. The Gulf war demonstrates the need to consolidate the world's unanticipated gain in peace and security. It can lend required urgency to the task.

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28. Of course, a more encompassing treatment of a "new world order" would include the problem of development, which is discussed in, e.g., *Common Responsibility in the 1990's*, the "Stockholm Initiative."

29. Thomas R. Pickering, commencement address, The Fletcher School of Law and Diplomacy, Tufts University, Medford, Mass., 19 May 1990.



