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The UN between Heaven and Hell

Much gallows humour attended the appointment of the High Level Panel by Secretary General Annan a year ago. With an average age in the seventies, Kofi's geriatrics were given a better chance of dying in office than of reforming the UN. The Babylonian disparities in their experience, ethnicity, religion, and world view were not going to make the task any easier. The smart money said that "Kofi had blown it!" The smart money was wrong. The Panel has not only produced a unanimous report, it has produced a very good one.

It is a measure of how difficult it is to reform the UN that the word 'reform' does not even appear in the mandate of the High Level Panel on Threats, Challenges and Change appointed by the Secretary-General. The organization is riven with divisions between rich countries and poor, between the Security Council and the General Assembly, between the nuclear powers and others, between the Arabs and Israelis, the Indians and Pakistanis and North Korea and its neighbours, and most significant, between a unilateralist Washington and a multilateralist UN. Finding consensus in these circumstances seems like mission impossible, which is why no serious reform has been made in 40 odd years. Nonetheless, the Panel has produced a series of both significant and implementable recommendations which, if adopted, would make the UN more effective. It is worth recalling the words of Henry Cabot Lodge, former US delegate to the UN that "this organization is created to keep you from going to hell. It isn't created to take you to heaven"

Politics is the art of the possible and the Panel has been necessarily artful. There is inevitably criticism that the report does not go far enough, or represents a missed opportunity in one respect or another. For example, it presents options, not a clear cut recommendation, on enlarging the Security Council. Nevertheless, the Panel has been admirably forthright, stating for instance, that there is "little evident international acceptance of the idea of security being best preserved by a balance of power, or by any—even benignly motivated—superpower." Above all, the Panel has been realistic. To attempt a root and branch renovation of the Charter would have been no more realistic than advocating fundamental changes to the Canadian constitution. The challenge now is to find the 127 affirmative General Assembly votes, including those of the existing five permanent members, necessary to make the profound changes recommended. Nothing less than the future of global governance hangs on the outcome.

Modernizing what the UN does is the first priority and retooling Security Council membership is a distant second. The Panel, therefore, rightly devoted the bulk of its efforts on what to do to get the former right, addressing itself to the main issues bedeviling the UN and undermining international peace and security. It advisedly did not take on regional conflicts, including particularly the enormously divisive Arab-Israeli conflict, sorely tempted as some of its members must have been to do so. Nor did the Panel expend a lot of energy on the General Assembly, a forum (that some would regard

as more a rabble than a parliament) which is essential to the socialization of states and the development of global norms, but notoriously ponderous and resistant to outside advice.

The Panel also concluded that the Economic and Social Council (ECOSOC) was largely a lost cause – its power having long since migrated to the IMF, the World Bank, the World Trade Organization, even the Organization for Cooperation and Development - and no amount of Solomonic wisdom on the Panel's part was going to attract it back. Better just to re-orient it, making it into a “development cooperation forum” for measuring development objectives and advancing the Millennium Development Goals. It is a sign of the Panel's wisdom that in urging the creation of a peace-building commission, in recognition that the UN has too often abandoned its interventions prematurely, it recommended that the commission be lodged in the Security Council not in ECOSOC. In fact, the report is remarkable for its focus on the Security Council and how to make it work better. For all its faults, and the report makes literally scores of recommendations on how to remedy them, the Council is the most effective of the UN's main organs, and certainly its most indispensable.

The Panel focuses accordingly on security, specifically on the need “to fashion a new and broader understanding ... of what collective security means” and what its achievement requires, particularly economic development “the indispensable foundation for a collective security system”, observing that “the mutual vulnerability of the weak and strong has never been clearer.”

The Panel deals squarely with the issue of intervention. The framers of the UN Charter had believed that peace would best be achieved through collective security and the prohibition of outside interference in the internal affairs of other states. Since the UN was formed, the number of inter-state wars has, in fact, diminished significantly even while the number of states has grown four-fold. But in the same period, internal wars have become the dominant form of warfare, raising the dilemma that people cannot be saved from the scourge of war without outside intervention. The potential nexus of terrorists and weapons of mass destruction post 9/11 raises a new challenge which some, notably in Washington, believe makes intervention not just possible but mandatory.

In its 101 recommendations, and to its great credit, the Panel has not shrunk from taking principled positions. On the use of force, it recommends a series of guidelines to the Security Council derived in large part from the Lloyd Axworthy commissioned report, “The Responsibility to Protect”. Specifically, the UN Panel endorses the emerging norm of the responsibility to protect, i.e., when a state cannot or will not protect its citizens, the responsibility to do so falls temporarily to the international community, embodied in the Security Council. The panel adopts other central recommendations of the Canadian report, notably the threshold tests for ascertaining the legitimacy of intervention, i.e. genocide, ethnic cleansing, and large scale loss of life and the precautionary principles, including, the necessity of acting with the right intention and the prospect of doing more good than harm. By outlining the conditions in which intervention is legitimate, the panel at once encourages the Council to authorize intervention and reassures the dubious that it will not be done wantonly.

As regards the potential nexus of terrorism and weapons of mass destruction, the panel confirms the distinction between unilateral pre-emption which is allowed under existing international law and unilateral prevention, as in the Iraq case, which is not. To the American insistence on its right to act to eliminate a gathering danger, the panel replies that unilateral preventive action, as distinct from collectively endorsed action, is too dangerous. "Allowing one to act is to allow all". The panel thus rejects American exceptionalism and warns against a return to balance-of-power politics that had produced the two bloodiest conflicts in all history; they were the rationale for collective security and the creation of The League of Nations and the UN in the first place. At the same time, the Panel believes sound arguments for prevention will persuade the Security Council to act.

The panel has done a great service in agreeing for the first time in UN history upon a definition of terrorism. The panel dismisses arguments about state terrorism, which is covered elsewhere in international law, and urges proscribing any action against civilians or non-combatants intended to intimidate a population or to compel a government to act, or not to act. The Panel stresses that the central point is that there is nothing in the fact of occupation that justifies the targeting and killing of civilians. The Panel, also, calls for greater equity in the effort to assure security, noting that Rwanda suffered the equivalent of three 9/11 attacks every day for 100 days.

The panel makes numerous other significant recommendations. It urges the US and Russia to schedule a progressive de-alerting of their nuclear weapons and recommends that the deadline for the international program for the reduction of highly enriched uranium be foreshortened to five years. It warns that 40 countries have the capacity to build nuclear weapons on short notice and stresses the importance of preserving the integrity of the Nuclear Non-Proliferation Treaty. To prevent nuclear material falling into terrorists' hands, the logical first step is to make an absolute priority of bringing it under the tightest possible control and eliminating it.

The panel also commends, albeit it does not formally recommend, Prime Minister Martin's L 20 innovation as a way to achieve policy coherence. The L 20 remains a controversial idea with some, attached to the exclusivity of the G 8, reluctant to expand it and others, offended by that exclusivity, opposing the L 20 as the G 8's unwelcome successor. The Panel also urges that new negotiations be launched on global warming. It recommends, as well, far-reaching changes to the Commission on Human Rights, an embarrassment to the UN, suggesting that Human Rights experts rather than government representatives head national delegations.

The Panel accepted the argument of the proponents of Council enlargement that the current line-up did not reflect contemporary realities. South Africa has held, on this score, that had there been a permanent member for Africa at the time of the Rwanda debacle, the genocide would not have been allowed to happen. Perhaps, although the Government of Rwanda itself was on the Security Council at the time. The Panel will be criticized by some for not forthrightly recommending eliminating the veto and by others for not extending it to countries at least as deserving as some of the P5. But the Panel,

possibly because of its extraordinary seniority, had the wisdom to know what could be changed and what could not. There is no prospect of any of the P5 voluntarily surrendering its veto, the only way elimination could be achieved. The Panel recognized that power and principle have to co-exist, however contradictorily. As in 1945, no veto power would have meant no United Nations. At the same time, the Panel did not advocate adding vetoes, recognizing that if five vetoes were bad, 10 vetoes would be much worse.

The Panel proposes two options for enlarging the Council. Canada cannot be indifferent as regards which option is chosen by the membership, if either is chosen. The first option would hand a permanent seat to the six countries with the most clamorous cases for having one, notably Japan and Germany because of their financial contributions and India, Brazil and possibly South Africa for equitable geographic representation reasons. The second option, which entails the addition of eight four-year, renewable term seats is better for Canada. Given that the Panel also recommends that selection qualifications include the size of contributions to the UN's assessed and voluntary budgets, participation in UN-mandated peace operations, diplomatic activities in support of UN objectives and achieving or making substantial progress towards the universally agreed O.7 Official Development Assistance (ODA) target, Canada could, if it invested in its foreign policy again, eventually make its own case for such membership. The bottom line for Canada, nevertheless, is that an effective UN is a national interest, whatever the make-up of the Council.

If the struggle for the US foreign policy soul is not over, the Panel's report provides the fodder for another fight. The US representative on the Panel, former National Security Advisor General Brent Scowcroft, has said that all of the recommendations of the Panel are in the US interests. He failed the Iraq war litmus test, however, and his standing inside the Beltway is uncertain. It is probably significant, however, that Washington has held its fire on the Panel's recommendations.

The Panel approvingly quotes former President Truman's statement to the UN's founding conference in 1945, that "we all have to recognize—no matter how great our strength—that we must deny ourselves the license to do always as we please." It was good advice then; it is good advice now. If Washington takes it, we might at least be saved from all going to hell, together.