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This paper is meant to discuss two important and distinct but intersecting challenges to international stability and then propose some ideas for dealing with them. The first challenge is micro-political, more specifically, American exceptionalism, and the consequent uses and misuses of power. The second challenge is macro-political, specifically the diplomatic sclerosis of the United Nations, and other multilateral organizations, and their tendency towards inertia in the face of change. Each of these challenges is difficult and the context in which they intersect is potentially a very dangerous one.

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The Context

With respect to the US - European relations, the Atlantic, already politically wide at the end of the Cold War, is getting wider. Common values, notably with respect to human and civil rights, which were once simply assumed to unite America and Europe (and Canada) in both aspiration and practice, can no longer be so taken for granted. Attitudes towards economic and social rights, never identical, seem as divergent as ever. Beyond values, trans-Atlantic interests, which were never fully concentric, seem to overlap even less than they used to. More worrisome, in the Arab world, to paraphrase a recent US commission on public diplomacy headed by Edward Djerejian, a former US ambassador to Israel and Syria, the bottom has fallen out of support for the US. The attitudes towards the US in most Islamic countries are likewise negative. In Latin America, the US-engineered regime change in Iraq evoked memories of the Monroe Doctrine and a hundred years of US intervention. Globally, with respect to security, there is little common threat-perception. Outside the United States, few perceive terrorism in the existential danger terms that Americans do, that would warrant the kind of general mobilization that Soviet Communism did. Most others seem to see that threat more in terms of economic disruption and individual safety, of clogged borders and personal inconvenience, of being in the wrong place at the wrong time, rather than of a war and a danger to national security.

There is correspondingly little or no agreement in the world on how to respond to "terrorism", beyond sharing intelligence where interests do coincide sufficiently, tightening up travel regulations insofar as governments can agree to do so and denying the use of the international financial system by known terrorists to the extent feasible.

There is a risk, albeit still a manageable one that the US "crusade" in the Middle East will morph into a prolonged conflict between the West and Islam. A religious war in an age of asymmetric warfare is a danger that wise people, on all sides, know that they must do all they reasonably can to circumscribe. Meanwhile, the UN is suffering a loss in international esteem, disappointed by some for not endorsing the war in Iraq, distrusted by others for not preventing it.

Incidentally, bringing Turkey into the European Union would be convincing evidence that the EU wishes to live in cooperation with Moslems, not in confrontation with them or isolation from them. Such a step would confound Islamic extremists, undermine their popular appeal and diminish their support base for a jihad against the West. It is not a little paradoxical that many of the Europeans who see EU foreign policy as more enlightened towards Islam and the Middle East than American policy find it so difficult to embrace Turkey. Making Turkey a genuine partner in the European project would show that the EU can act strategically in its own interests and can resist the gravitational pulls of history and religion on this issue, too, as it has on

others. When Eastern European and other countries with substantially less democratic experience than Turkey, and with human rights records that are little or no better, are accepted comparatively readily into the Union and Turkey's entry is postponed, or rejected altogether, the argument that European resistance to Turkish membership is founded in something other than religion is not convincing.

As significant as terrorism, and Islamic and other religious fundamentalisms are politically, we face other security challenges, some much more deadly. From the Congo to Sudan to Columbia, crimes against humanity are taking literally countless lives. The number of interstate conflicts may have declined in recent years, but the proportion of intrastate conflicts has increased, and they have become more lethal for civilians. Disease is no less lethal. HIV-AIDS, malaria and childhood diseases are still more pervasive and much more deadly even than conflicts are. HIV-AIDS has taken nearly 30 million lives and threatens 40 million more. Malaria routinely takes more lives than even small arms do, let alone sporadic terrorist atrocities. After years of neglect, progress is being made on HIV-AIDS, although here, too, the international community is far from united.

Divisions over economics have, likewise, remained intractable. Progress has undoubtedly been made, particularly in Asia, especially in China and India where millions of people have escaped poverty. Elsewhere, notably in Africa, the number of people living on less than one dollar day has actually increased. The undoubted benefits of a globalizing economy notwithstanding, the world remains polarized between rich country and poor over the causes of persistent poverty and the remedies for it. The international community is not on track to achieve the economic and social goals leaders so optimistically set themselves at the Millennium Summit at the UN in New York in September 2000. Rich and poor governments, international organizations, business, and civil society organizations, all get failing grades on meeting the voluntary chosen targets from the tracking project of the World Economic Forum. Meanwhile, the problems of the commons, so long ago identified and so self-evident to the people present at this conference remain intractable, with species disappearing, fish stocks depleting, deserts advancing, forests retreating and the climate changing.

The Micro Challenge: American Foreign Policy

As the most powerful country, the United States, of course, is at the heart of all of these issues. To an extent that most Americans probably do not realize, US foreign policy impacts on virtually every issue across the globe. Domestically, in the United States, the exercise of power is governed by a system of checks and balances between the executive, congressional and judicial branches and state and federal governments. No branch of government is allowed a free hand. Abroad, however, successive American administrations have progressively come to realize that after the demise of the Soviet Union, US foreign policy faces

no external check or balance. The US can be neither compelled to act nor prevented from doing so. Others, particularly other industrialized countries, have ceded leadership increasingly to Washington, in part because of the US's sheer capacity to lead, in part because others saw (and still see) no international threat to themselves or, more disgraceful, no obligation to others, which would warrant substantial investments in military capability. Many have preferred to spend their tax resources and parliamentary effort on domestic needs, where political demands are most urgent and political rewards most sure.

As a consequence of the leadership role that the US both sought deliberately, and, also, acquired by default, many in Washington on both sides of the political aisle

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have come increasingly to regard the US as bearing a disproportionate burden and meriting, therefore, exceptional dispensations from international law and norms. Such American "exceptionalism" is not a new phenomenon—it dates from the arrival of the Puritan arrival in North America—although it has taken on new currency.

Exceptionalism unquestionably has had its positive as well as its negative consequences. The US has exercised exceptional leadership, for example, in the development of post-war institutions, in the promotion of human rights and the development of international law, in the containment of Communism and the defeat of the Soviet Union, and in the preservation of stability among Japan, China, Russia and the Koreas. (It is also the case that from Iran in the fifties, to Cuba and Vietnam in the sixties, to Chile in the seventies, to Iraq and Afghanistan in the eighties, the US has chalked up some exceptional errors.)

But it is the more self-serving manifestations of exceptionalism that have, inter alia, led to an American questioning of the applicability of the UN Charter to the United States, indeed of international law per se. Witness the advice to President Bush, recently made public, that he was not bound by the Torture Convention or the Geneva Protocols. Or consider the oft repeated view of many in Washington that obtaining UN Security Council blessing of US military action against Iraq was merely discretionary. In its opposition to the International Criminal Court, US pressure on the UN Security Council amounted to an abuse of process. US actions violated the UN Charter, itself, and were seen by many as exceptionalism taken to extreme lengths, as the US sought, ultimately unsuccessfully, to enshrine one law for the goose and another for the gander. That the US has dropped its effort in the Security Council to secure

blanket immunity for its troops from ICC jurisdiction is welcome, as much for the principled opposition of the Security Council that led to the decision as for the American circum-spection it entailed.

It has become a truism that 9/11 "changed everything". While 9/11 demonstrably did not actually change everything, there is no doubt it did change some important things, especially in the conduct of American foreign policy. Influential Americans, especially but not exclusively the "neo-cons", persuaded themselves that the potential nexus of terrorism and weapons of mass destruction meant that the US could best, in fact, only assure its security by the US acting free of the constraints of international law, multi-lateral institutions and quarrelsome allies. Allies were considered in Washington to owe the hegemon a decent loyalty, at least when it decided that an action was in its vital interest, as in Iraq. Bookshelves are groaning under new treatises about American Empire, about Mars (the US) and Venus (the EU) and about the inevitability of American domination, all justifying, one way or another, American exceptionalism.

Post 9/11, the US Administration propounded a national security strategy that posited not just pre-emption, which is foreseen in international law, but prevention, which is not. The difference is far from legal hair-splitting. The post World War II system is anchored in the proscription of the use of force except in self-defence and except with Security Council acquiescence. Customary international law provides for pre-emptive self defence, but pre-emption entails rigorous tests on the part of the protagonist as regards the seriousness and immediacy of the danger and the absence of effective alternatives remedies. It, also, entails judgments about the capability and intent to do harm on the part of the adversary. It, further, presumes both very high quality intelligence, which as we know was catastrophically absent in the Iraq case, and sound interpretation of that intelligence, which was equally tragically missing.

The reason for going to war in Iraq was actually preventive, that is, to bring down a tyrant with weapons development capabilities and presumed malevolent intentions. It was presented, however, as pre-emptive, that is to stop a tyrant who already had weapons of mass destruction and terrorist links and was immediately prepared to use them, or to subcontract their use to a terrorist organization.

At no time in the winter of 2002 and the spring of 2003 did it seem to register in official Washington that a large majority of UN member states disagreed that war in Iraq was necessary and urgent and that their objections were not just the regrettable but temporary by-product of "decisive" American leadership, to be endured until the policy vindicated itself, but a disagreement that mattered especially to the US's prospects of success there. US action undermined the UN, called into question the very idea of international law (although not international trade law) and harmed the major interests of virtually every other country. No one in a position of influence in Washington seemed to consider that if reasonable countries disagreed, perhaps

their arguments for restraint deserved consideration, not derision.

The national security strategy created a second, longer term problem when it articulated hegemonic intent which, if implemented, could eventually generate major wars in the future. More broadly, in declaring war on terrorism post 9/11, essentially on a heinous tactic but a tactic nonetheless, not on a tangible enemy such as the Al Qaeda network, Washington gave itself "mission impossible". In attacking Iraq over the objections of undoubtedly the great majority of UN members, and despite the sketchiest of links between Al Qaeda and the Iraqi regime and no hard evidence of weapons of mass destruction, the US put itself offside of world public opinion. In portraying terrorism in monolithic terms, Washington allowed others in the Middle East and beyond to pursue their discrete and disparate issues under the same banner as the US and may have set the stage for a larger conflict with Islam.

The Macro-Political Challenge: UN Sclerosis

In attacking Iraq against the will of the international community, and in mishandling the occupation, the US did itself, and the UN, incalculable harm. It would be wrong, nevertheless, simply to lay all the UN's misfortunes at Washington's door. The UN Charter was written in and for a different age and treats national sovereignty as a near absolute and immutable good. As a consequence, over time a contradiction has arisen between the most basic purpose of the UN, "to save succeeding generations from the scourge of war", and one of its cardinal tenets, the proscription of interference in the internal affairs of states. Because most wars, the Iraq war being a significant exception, currently arise within the borders of existing states, the inhabitants often cannot be protected from the scourge without intervention from the outside. There is no consensus internationally, at least yet, on how to respond to this new reality. Equally, there is no agreement on how to reform the aging, unrepresentative Security Council, still the most important political/security body on earth.

Most fundamentally, the UN's strength, its universal membership, has become also its weakness. Membership has swollen to 191 countries, making the achievement of consensus on any issue a Sisyphean task. This has led some, including more moderate Americans, such as Ivo Daalder of Brookings who served in the Clinton White House, to call for an Alliance of Democratic States that would either function within the world organization or outright replace it. The common values at the core of an Alliance of Democracies, it is argued, would earn the respect of Americans, confer legitimacy on its decisions in the eyes of democrats everywhere, which would in turn more readily galvanize action, including military action. This respect, it is asserted further by some, has been definitively forfeited by a UN dominated by despots, human rights abusers and inconsequential micro-states.

The impulse to do better is understandable because the

need for a more reliable, effective and conscientious instrument for use on humanitarian crises is very real. The democratic caucus thesis, nonetheless, confers more rectitude on democracies than an examination of history supports. Democracies rarely war with each other but they have been capable, nonetheless, of self-serving political chicanery. Worse, and contrary to contemporary fable, some democracies have been quite willing to go to war, and have justified their doing so by virtue of the importance of the mission conferred on them by history and in light of their own self-proclaimed righteousness and peace-loving character.

In any case, the UN membership is already two-thirds free or partly free, according to the non-partisan US organization, Freedom House. The trend is clearly in the direction of further democratization. While cooperation among democracies can be enhanced, the UN's utility derives in part from its ability to engage with the non-democracies among its members. It is precisely the non-democracies whose behaviour needs most to be influenced and engaging them has proven more availing in this connection than isolating them has.

Some American proponents of an alliance of democracies seem to assume that such a group would more readily support US policies. This theory ignores the fact that resistance to US policy on Iraq was led in the Security Council by democratic governments. It has, also, been the case that NATO, which is an alliance of democracies, has not always endorsed US policy, notably on Iraq.

There are other ideas for international governance innovation that would complement the UN not compete with it. Perhaps the most promising is the Canadian Government's idea to expand the G-8 economic summit to perhaps 20 members drawn from the leading countries from the south as well as the north. Such a forum would be more representative of current political and security realities and yet small enough to allow participating heads of government to tackle common issues efficiently and to commend solutions to the larger community. Prospects for progress on HIV--AIDS and other communicable diseases, on trade and agricultural subsidies, on terrorism and WMD, on protecting the innocent, on international financial reform, on the Millennium Development Goals and not least on the reform of the UN itself would be enhanced if leaders narrowed differences among themselves authoritatively and directed their officials and UN delegations accordingly. The UN would retain its unique legitimacy by virtue of its universal membership and its indispensable security role as framed in the Charter and international law.

It is evidence of the UN's resilience that despite the many difficulties it faces, the organization has persevered and, even, begun to rally. Member countries have, by and large, come to accept again both that multilateral cooperation is a necessary means to some important ends and that the UN is indispensable to the good management of international relations not irrelevant to it, as President Bush queried in his UN General Debate statement in September,

2002. The Iraq experience has reconfirmed that the general concurrence of the world expressed through the UN remains necessary to confer legitimacy on acts of war and that that legitimacy is a prerequisite to broad-based, effective cooperation in the management of war's aftermath.

Most governments have come to the realization that the UN per se is central to global cooperation. In an integrating world, it is more evident than ever that overarching economic and social problems, such as climate change and communicable diseases, can best and often only be resolved globally. This is not to say that the UN's deep-seated problems can safely be ignored. Anyone who has spent a frustrating afternoon in the Security Council or a stultifying evening in the General Assembly knows that reform is urgently needed.

What Can Be Done To Help the UN?

The most fundamental challenge UN members face is to come to a common understanding of when and under what conditions the international community is justified in intervening in the internal affairs of member states. The potential grounds for intervention include humanitarian crises, the illegal development or proliferation of weapons of mass destruction, the provision of safe haven for terrorists to attack others, the inability of states to control cross-border crime and the overthrow of democratic governments. These are extremely difficult issues and there are understandable reasons that UN's approach to them tends to be cautious, even sclerotic. A large proportion of UN member states are former colonies, whose governments see the concept of sovereignty as a crucial bulwark against renewed domination. They are understandably reluctant to risk creating new pretexts for interference by others. They have bad memories of "the North" "helping" them, as happened 120 years ago, at the Berlin Conference of 1885, when large swaths of Africa were carved up and political entities created that were rational only in terms of European exploitation, leaving Africans with a legacy of poverty, conflict and suffering that continues to this day.

The worries of the former colonies are entirely comprehensible but they are not, nevertheless, an effective basis on which to protect the interests of their citizens, or of ours, in a changing world. This is particularly true for military intervention for humanitarian purposes. As Secretary General Annan said in his Nobel Prize acceptance speech: "[t]he sovereignty of States must no longer be used as a shield for gross violations of human rights". It would be tragic if the suspicion and hostility created by the invasion of Iraq made military intervention for humanitarian purposes even more difficult than it already is.

By the way, the Iraq war would not have satisfied most of the tests presented in the seminal report that the Government of Canada commissioned on this subject, the Responsibility to Protect. The Iraq war did not meet the commission's "just cause" threshold, because there was no "large scale loss of life, actual or apprehended". On this point, Kenneth Roth, the head of Human Rights Watch and

a former federal prosecutor for the U.S. Attorney's Office for the Southern District of New York and the Iran-Contra investigation in Washington, has written that "to justify the extraordinary remedy of military force for preventive humanitarian purposes,... there must be evidence that large-scale slaughter is in preparation and about to begin unless militarily stopped. No one seriously claimed before the war, however, that the Saddam Hussein government was planning imminent mass killing, and no evidence has emerged that it was."

Removing Saddam to prevent large scale slaughter would have been justified on humanitarian grounds on at least two earlier occasions, when he attacked the Kurds with gas in 1988 and when he suppressed the Shiites at the end of the 1991 Gulf war. Waiting a decade to react to these atrocities, however, called the humanitarian motive inevitably into question. Furthermore, there is no statute of limitations on these crimes against humanity. Had Saddam, like Milosevic and some of the Khmer Rouge, eventually fallen into willing hands he would have been prosecuted. In the meantime, he had been progressively disarmed and effectively contained. Further, the attack on Iraq did not meet the test of "right reason", i.e., "to halt or avert human suffering". The 2003 US State of the Union speech scarcely mentioned Iraqis. Nor was it the last resort.

Nevertheless, while suspicions of US motives in the Iraq case might be widely held, they scarcely constitute grounds for leaving the grossly abused elsewhere to suffer what they must. "Bad cases make bad law", as lawyers in the Common Law tradition know only too well. And Iraq was a bad case with which to establish norms of international behaviour.

Kosovo was a better case. The intervention by NATO in Kosovo met the just cause threshold. Large scale loss of life and ethnic cleansing were occurring. It satisfied the precautionary principles, including "right intention", which was to halt human suffering. The Serbs had displaced four hundred and fifty thousand Kosovars before the NATO bombing began. The war was the last resort. Milosevic had a track record of human rights abuse and destruction in Bosnia and had been given every chance to desist in Kosovo. The use of force was proportional. NATO could have used vastly more destructive power than it did, although mistakes and accidents caused many casualties, usually highly publicized. There was, as well, a reasonable prospect of success in halting the suffering.

What was missing in the Kosovo conflict was the right authority, a decision by the Security Council to authorize the intervention. That authority was missing because the Russians had made it clear that they would veto a Security Council resolution authorizing intervention. But unlike in the Iraq case, on Kosovo the great weight of opinion in the UN, both in the Security Council and the General Assembly, supported the intervention as necessary, justified and legitimate if not entirely legal. What made Iraq so troubling was that the great weight of opinion in the Council and in the Assembly was against intervention, at least until the weap-

ons inspectors had had the time to do their job.

Dharmfur would also be a better case. It would meet the just cause threshold, particularly as regards "ethnic cleansing" and "large scale loss of life, actual or apprehended". Dharmfur would arguably also meet the Genocide Convention test as regards the intentional destruction of a group, in whole or in part, although the Security Council has been unconscionably slow to act. Echoes of Rwanda.

Clearly, an international community worthy of the name needs to do better in protecting the innocent in Dharmfur as everywhere else. That means addressing the main weaknesses the UN now faces with respect to military intervention in cases of humanitarian necessity in the Third World. In the



The Security Council's action to stop the genocide in Dharmfur has been largely ignored by the Sudanese government. A Responsibility to Protect model has been proposed to cease such UN ineffectivity.

third world, there is an historically quite understandable fear of too much outside intervention but an all too true and distressing reality of too little, as Rwanda tragically demonstrated, and the conflicts in the Congo and Sudan continue to confirm.

It was to try to advance agreement on this vexing question, in part, that UN Secretary General Kofi Annan established the panel on UN reform. The UN reform panel is currently engaged on this issue and there is plenty it should do. The panel ought to encourage the UNSC to establish operational guidelines that will encourage consistent and coherent action to protect the innocent. These guidelines would establish specific thresholds for action and principles to guide decision-making. The panel could do worse than simply endorse the report on The Responsibility to Protect. The UN panel should also recommend strengthening links between international human rights/humanitarian organizations and the Security Council, to improve the Council's decision-making process. The Council needs to have the clearest possible understanding of what is happening in a given conflict and to be prepared to act in a much more timely and determined manner.

Further, the panel should recommend that it be a condition of Council elections, that members assume a special responsibility for participation in the UN's military opera-

tions. Membership on the Council is a privilege that both requires a capacity to contribute to maintaining international peace and security and carries a responsibility to do so.

The panel, more fundamentally, should urge the General Assembly to modernize its interpretation of sovereignty to include the idea of responsibility as well as privilege, notably the responsibility of the state to protect its citizens. In the age of the Treaty of Westphalia, the sovereign did have responsibilities to protect his people. The General Assembly should acknowledge that when a state is unable or unwilling to acquit its responsibilities, they devolve upon the international community, to do so acting through the UN. Further, the panel should recommend the full participation of all the Breton Woods institutions in a coordinated effort to prevent war through development and to rebuild the peace after conflict. The Bretton Woods organizations have their own problems that need attention, for example, their representation and voting rights aberrations. Further, the World Bank has grown to dominate other institutions in the development field and its role vis-à-vis the regional development banks and especially the UNDP needs recalibrating if it is not to sideswipe the others. Nor is the IMF's mandate clear in a floating exchange rate world, including vis-à-vis the more powerful countries which currently can and do ignore its prescriptions. The weaknesses of these other existing bodies need remedying and the lacunae between them need filling.

The tragic losses of 9/11 raise another security challenge, one much preoccupying Americans and even those who disagreed with US action in Iraq. It is the nexus of WMD and terrorism. The critical questions are how real this issue is and whether this new danger provides a sufficient justification for outside intervention in a state's internal affairs. It is crucial that the UN reach a modus operandi on this most difficult issue if the US is to consider the UN relevant to its vital interests. On this exact point, the UN Secretary General told the leaders assembled in the UN last Fall that "we have come to a fork in the road and that we must decide whether radical changes are needed". It is important that the UN panel bear in mind the importance of reconciling the very considerable differences between the US and others on this issue, if the UN is to fully regain its effectiveness.

The International Community should help the Secretary-General to rebalance the international agenda more generally, to empower the United Nations to organize a global response to the global challenges of poverty alleviation, disease control, hunger, inadequate schooling and environmental destruction. Specifically, we need to deal with the non-military sources of conflict. We need a vision encompassing education and health, democracy and human rights and good governance. Peace cannot be built without alleviating poverty, freedom cannot be built on foundations of injustice and democracy cannot be built in contradiction of international law.

Of course, reform can only start with the hoped for wisdom of a UN panel, but there is a good deal that individual

states should do. First, member countries must support the report and press for its adoption. Political parties in a position to do so must encourage their governments to speak out. European countries and Canada need to use their political capital to try to persuade Third World countries, the Africans above all, that by limiting and pooling their national sovereignty they can serve their own interests, and those of their people. We, also, can work to alleviate the concerns of Latin Americans.

We need to work also to understand, and to persuade others to address, Washington's sense of unique vulnerability. I would not presume to advise Germany or other



Kofi Annan's vision of reform gives hope for the future of a stronger, more responsive United Nations.

Europeans, unsolicited, on relations with the US. I do believe that Canadians should impart to others the particular, probably unique, insights into American motivations that we gain from geographic proximity and political and cultural propinquity. I do also believe that we must not shrink from agreeing with Washington when they are right and, equally, must not shrink from disagreeing with them when they are wrong. Today's news on the International Criminal Court confirms both the importance of "speaking truth to power" on fundamental issues. Under the pressure of international opposition, the US has shifted on Iraq, whether strategically or only tactically, time will tell.

We can, also, urge Asians devoted to the concept of Asian values to recalibrate their surprisingly strong attachment to the 17th century European idea of sovereignty.

The dream of a world governed by laws and not men, guided by justice and not just determined by the powerful remains possible. What is needed now is to bring international law and UN practice into the 21st Century. We need to make the UN relevant both to the most powerful and to the least powerful among us.

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