# AFTERWORD TO THE VINTAGE ED TION:

# *American Power and the Crisis of Legitimacy*

"WHAT KIND OF WORLD order do we want?" That question, posed by Germany's foreign minister, Joschka Fischer, on the eve of the American invasion of Iraq in March 2003, has been on the minds of many Europeans these days.[1] That by itself shows the differences that separate Europeans and Americans today, for it is safe to say the great majority of Americans have not pondered the question of "world order" since the war.

They will have to. The great transatlantic debate over the Iraq war was rooted in profound disagreement over "world order." Yes, Americans and Europeans differed on the specific question of what to do about Iraq. They debated whether Saddam Hussein posed a serious threat and whether war was the right answer. A solid majority of Americans answered yes to both questions; even larger majorities of Europeans answered no. But these disagreements reflected more than simple tactical and analytical assessments of the situation in Iraq. As France's foreign minister, Dominique de Villepin, put it, the struggle was

[1] Joschka Fischer interview in *Der Spiegel*, March 24, 2003.

not so much about Iraq as it was a conflict between "two visions of the world."[2] The differences in Iraq were not only about policy. They were also about first principles. Opinion polls taken before, during, and after the war have shown two peoples living on separate strategic and ideological planets. More than 80 percent of Americans believe war may achieve justice; less than half of Europeans believe that a war—any war—can ever be just.[3] Americans and Europeans disagree about the role of international law and international institutions, and about the nebulous and abstract yet powerful question of international legitimacy. These different worldviews predate the Iraq war and the presidency of George W. Bush, although both the war and the Bush administration's conduct of international affairs have deepened and perhaps hardened this transatlantic rift into an enduring feature of the international landscape. "America is different from Europe," Gerhard Schroeder declared matter-of-factly months before the war.[4] Who any longer can deny it?[5]

[2] Dominique de Villepin, address to the UN Security Council, March 19, 2003.

[3] See *Transatlantic Trends 2003*, a survey commissioned by the German Marshall Fund of the United States and the Compagnia di San Paolo. Polling was conducted June 10–25, 2003, in eight countries: the United States, France, Germany, Great Britain, Italy, the Netherlands, Poland, and Portugal. (Results can be viewed at www.transatlantictrends.org.)

[4] Gerhard Schroeder interview in *The New York Times*, September 4, 2002.

[5] As the British political scientist Christopher Croker has observed, "Nothing is more naïve than the claim that the rifts are likely to end if Bush fails to be reelected in 2004 or if the Schroeder government loses power." Christopher Croker, *Empires in Conflict: The Growing Rift*



When this book was first published at the beginning of 2003, before the Iraq war, the transatlantic gulf was plainly visible. Less clear then, however, was how significant it would turn out to be for the world. One could imagine a transatlantic parting of the ways on global strategic matters that was, if not quite amicable, at least manageable, a strategic division of labor in which Europe concentrated on Europe and the United States on everything else. Cold War strategic partnership might be replaced by a certain mutual indifference, but that need not augur an ongoing crisis within the West. Could not Americans and Europeans simply say to one another, in the words of Bob Dylan, "You go your way, and I'll go mine"?

Today a darker possibility looms. A great philosophical schism has opened within the West, and instead of mutual indifference, mutual antagonism threatens to debilitate both sides of the transatlantic community. Coming at a time in history when new dangers and crises are proliferating rapidly, this schism could have serious consequences. For Europe and the United States to decouple strategically has been bad enough. But what if the schism over "world order" infects the rest of what we have known as the liberal West? Will the West still be the West?

A few years ago such questions were unthinkable. After the Cold War, Francis Fukuyama assumed, along with the rest of us, that at the end of history the world's liberal democracies would live in relative harmony. Conflicts would be between the West and "the rest," not within the

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*Between Europe and the United States*, Whitehall Paper 58 (London, 2003): 3.

West itself. The world's democracies, sharing common liberal, democratic principles, would "have no grounds on which to contest each other's legitimacy."[6] That reasonable assumption has been thrown into doubt. For it is precisely the question of legitimacy that is at issue today between Americans and Europeans—not the legitimacy of each other's political institutions, perhaps, but of their differing visions of "world order."[7] More to the point, it is the legitimacy of American power and American global leadership that has come to be doubted by a majority of Europeans. America, for the first time since World War II, is suffering a crisis of international legitimacy.

Americans will find that they cannot ignore this problem. The struggle to define and obtain international legitimacy in this new era may prove to be among the critical contests of our time, in some ways as significant in determining the future of the international system and America's place in it as any purely material measure of power and influence.

## THE THREE PILLARS OF COLD WAR LEGITIMACY

Where exactly has this struggle over legitimacy come from? Throughout the Cold War the legitimacy of American power and global leadership was largely taken for granted, and not just by Americans. The vast majority of Europeans, though they sometimes chafed under American dominance and often questioned American actions in Vietnam, Latin America, and elsewhere, nevertheless accepted American leadership as both necessary and desirable.

[6] Francis Fukuyama, *The End of History and the Last Man* (New York, 1992), p. 263.

[7] Actually, Europeans and Americans do at times question each other's political and economic institutions.



Contrary to much mythologizing on both sides of the Atlantic these days, the foundations of America's Cold War legitimacy had little if anything to do with the fact that the United States created the United Nations or faithfully abided by the precepts of international law as laid out in the UN Charter. The UN Security Council was paralyzed for the first four decades of its existence by the Cold War confrontation. The United States did not consider itself bound to seek the approval of the Security Council before making or threatening war, and Europeans neither expected nor demanded that it should. Nor did European nations themselves seek such authorization when they went to war in the Middle East or in Southeast Asia or in the South Atlantic. When the United States did cite international law to justify its Cold War policies, it appealed to the catch-all principle of collective self-defense—based on the sometimes dubious proposition that any action taken by the United States, from military interventions to clandestine overthrows of regimes throughout the third world, was by definition an act of collective defense of the "free world" against an inherently aggressive international communism.

It was not a structure of rules, laws, and institutions but the circumstances of the Cold War and America's spe-

cial role in that conflict that provided the United States with legitimacy, at least within the West.[8] In Europe, American legitimacy rested on three pillars, all based on the existence of a Soviet communist empire.

The sturdiest pillar was the common strategic threat of the Soviet Union—the reality made vivid daily by hundreds of thousands of Soviet troops parked in the center of Europe. Coupled with this common threat was the common understanding that only the United States possessed the power to deter it. For most Europeans, and for most of America's Asian allies, too, America's widely agreed-upon role as principal defender against the Soviet threat gave it a very broad mantle of legitimacy. Even when Europeans believed the United States was acting foolishly or immorally, as in Vietnam, most nevertheless continued to accept American power and global leadership—partly because they had to. Much of the legitimacy the United States enjoyed within the West during the Cold War derived from the self-interest of its allies.

Complementing the common strategic threat was a common ideological threat. During the Cold War the United States prided itself on being the "leader of the free world" against the totalitarian world, and most Europeans agreed. The Cold War's Manichean struggle provided the world's most powerful democracy substantial authority in the democratic camp. In retrospect it is clear that commonly shared liberal democratic principles meant a good

[8] Outside of Europe and Japan, in places such as Latin America, the Middle East, and Africa, and of course Russia and China, America was generally accorded less legitimacy.



deal more in a world threatened by totalitarianism than they would in a world made safer for democracy.

Finally, the Cold War's "bipolar" international system provided what might be called a structural legitimacy. The roughly equal balance between the two superpowers meant that America's power, though vast, was nevertheless checked. It was not that Europeans welcomed Soviet military power on the continent. But many implicitly understood that the existence of Soviet conventional and nuclear power acted as a restraint on the Americans. De Gaulle's France, Willy Brandt's Germany, and others relished the small measure of independence from American dominance that the superpower balance gave them.

At the end of the Cold War these pillars of American legitimacy fell to the ground along with the Berlin Wall and the statues of Lenin. There has been little in the post–Cold War era to replace them. Radical, militant Islam, whatever dangers it may represent when manifested as terrorism, has not and cannot replace communism as an *ideological* threat to Western liberal democracy. Today, the phrase "leader of the free world" sounds vaguely absurd even to American ears.

Nor has the massive threat of the Soviet Union been replaced as a source of American legitimacy by the more diffuse and opaque threats of the post–Cold War era. Ethnic conflict in the Balkans in the 1990s compelled Europeans to give their blessing to American military intervention, and making Europe "whole and free" was a transatlantic project in which America was still accorded a leadership role, especially by the nations of Central and Eastern Europe. But the completion of that project put an

end to European strategic dependence on the United States, at least in the view of many Western Europeans. The peoples of Europe never fully shared American concerns about weapons of mass destruction in Iraq, Iran, and North Korea, not during the Clinton administration nor afterward. Nor do most Europeans today share Americans' post–September 11 alarm over the possible nexus between such weapons and international terrorism. Rightly or wrongly, in their hearts, Europeans do not believe those weapons will be aimed at them. And to the extent that Europeans do worry, most no longer look to the United States to protect them. Europeans living in their geopolitical paradise do not fear the jungles beyond; therefore they no longer welcome those who guard the gates. Instead, they ask: Who will guard the guards?

America's legitimacy during the Cold War rested heavily on European self-interest. Today Europeans' relative strategic independence has caused many to take back the blanket legitimacy they once accorded America.[9] Indeed, the disappearance of the Soviet threat, the inauguration of the present "unipolar" international system, and the consequent loss of structural legitimacy have turned many Europeans' fears and suspicions westward across the Atlantic. Far from viewing the United States as a protector and therefore a legitimate "leader," many Europeans today worry about an unconstrained America that has grown beyond their control.

[9] The exception, of course, is in Eastern and Central Europe, where most nations still feel strategically dependent on the United States. But if and as these powers feel less threatened over the coming years, and as they become more entangled in the European Union's web of economic and political relationships, they may follow the path of the Western European peoples.



## THE UNIPOLAR PREDICAMENT

What might be called the "unipolar predicament," therefore, is not the product of any specific American policy or of a particular American administration. With the end of the Cold War, America's unprecedented global power itself has unavoidably become the new issue, one with which Europeans and Americans have only in begun to grapple.

"What do we do," Joschka Fischer asked after the Iraq war began, "when . . . our most important partner is making decisions that we consider extremely dangerous?"[10] What indeed? The question is a relatively new one, because the loss of European control over American actions is a relatively new phenomenon. During the Cold War, even a dominant United States was compelled to listen to the Europeans, if only because American Cold War policy aimed above all else at protecting and strengthening Europe. Today, Europe has lost much of the influence it once enjoyed. It is too weak to be an essential ally, and it is too secure to be a potential victim. Whereas during the Cold War the United States used to calculate how its actions would affect Europe's security, today it does not have to worry nearly as much.

That's why Europeans are worried—about unconstrained American power and about how they can regain

[10] Fischer interview in *Der Spiegel*, March 24, 2003.

some control over how the United States exercises that power. For one thing, Europeans too long have been accustomed to shaping the world, either through their own power or through their influence over the Americans, to sit back happily now and let America do the driving alone. And what are Europeans to do if they believe the United States is driving dangerously? Europeans felt this loss of control acutely during the Balkan conflicts of the 1990s, when in the early part of the decade they waited helplessly for a hesitant Clinton administration to act. Then, when the United States did act, in the 1999 Kosovo war, they had to watch as that difficult conflict in their own backyard was directed almost entirely by an American general. Whether the American president was George Bush, Bill Clinton, or George W. Bush, the new international structure has put Europeans in the unenviable position of having to trust the sole superpower to judge and act wisely. That isn't an easy thing to do, for as Europeans well know, all nations make bad judgments sometimes.

The unipolar predicament raises even more fundamental issues, however. Above all, it raises the issue of political and moral legitimacy. To the modern liberal mind, there is something inherently illegitimate about the idea of a single, dominant world power unconstrained except by its own sense of restraint. No matter how diplomatically adept an American president might be, the spirit of liberal democracy recoils from the idea of hegemonic dominance, domestic as well as international, no matter how benignly it may be exercised. As Kenneth N. Waltz put it in a 1997 essay, "Unbalanced power, whoever wields



it, is a potential danger to others."[11] Nature, most assume, abhors a monopoly of power as much as it does a vacuum of power.[12] And is it not true, as Lord Acton wrote, that absolute power corrupts absolutely?

To the Western liberal mind, checks and balances are prerequisites for justice and freedom in domestic life. As the British scholar-statesman Robert Cooper argues, "Our domestic systems are designed to place restraint on power. . . . We value pluralism and the rule of law domestically and it is difficult for democratic societies—including the USA—to escape from the idea that they are desirable internationally as well."[13] Would the United States use its power to serve its own narrow interests, at the expense of others? That is what worries even friends and admirers of the United States these days. "The difficulty with the American monopoly of force in the world community," Cooper argues, "is that it is American and will be exercised, necessarily, in the interests of the United States. This will not be seen as legitimate."[14]

[11] Kenneth N. Waltz, "Evaluating Theories," *American Political Science Review* 91 (December 1997): 915.

[12] In fact, according to realist and neo-realist theory, a unipolar world of the kind we now live in is impossible, or at least is inherently unstable and short-lived, because the emergence of a sole superpower must quickly lead the world's other powers to band together in opposition and restore international balance. For a summary and refutation of this theory, see William C. Wohlforth, "The Stability of a Unipolar World," *International Security* 24 (Summer 1999): 5–41.

[13] Robert Cooper, *The Breaking of Nations*, (New York, 2004), pp. 163–64.

[14] Cooper, *The Breaking of Nations*, p. 167.

Well before the Bush administration proved so maladroit at reassuring even America's closest allies, other post–Cold War administrations had faced mounting anxiety about America's growing dominance. In the 1990s, while Bill Clinton and Madeleine Albright were proudly dubbing the United States the "indispensable nation," French foreign ministers, along with their Russian and Chinese counterparts, were declaring the American-led unipolar world to be unjust and dangerous. In the Clinton years, Samuel P. Huntington was warning about the "arrogance" and "unilateralism" of American policies, and European complaints about the "arrogance" and "bullying" of the Clinton administration before, during, and after the Kosovo war in 1999 evinced a growing concern about the inherent problems of the new structure, and especially the accelerating loss of European control.[15]

For many Europeans the nightmare became real after September 11, 2001. For after the attack on the United States, the Bush administration and Americans generally became quite frank about wielding American power primarily if not exclusively in defense of their own newly endangered vital interests. The initial European support for the American invasion in Afghanistan, and the historic invocation of Article V by the NATO allies, providing for a collective defense of the United States, were aimed in part at ensuring the United States did not go off on its own and at giving Europe some control over the American response to the terrorist attacks. That was one reason why America's apparent indifference to these offers of assistance was so troubling to Europeans. Then when the United States began looking beyond Afghanistan, toward Iraq and an "axis of evil," Europeans realized they had lost control. The Cold War bargain underlying transatlantic cooperation had become inverted. Whereas once the United States risked its own safety in defense of a threatened Europe's vital interests, today a threatened America looks out for itself in apparent and sometimes genuine disregard for what many Europeans perceive to be *their* moral, political, and security interests.

For Europeans the problem of American hegemony has been especially vexing because there is so little they can do about it. Since the 1990s hopes for an emerging multipolar world have faded. Today almost everyone concedes the near impossibility of matching American power for decades to come, and even then the most likely candidates to compete with American power, China and Russia, do not offer an attractive prospect for most Europeans. Europe's own military capabilities continue to decline relative to the United States, and French ambitions to create a European counterweight to the United States are constantly overwhelmed by the more powerful, postmodern European aversion to military power, to power politics, and to the very idea of the balance of power.[16] They

[15] As Huntington noted, "political and intellectual leaders in most countries strongly resist the prospect of a unipolar world and favor the emergence of true multipolarity." See Samuel P. Huntington, "The Lonely Superpower," *Foreign Affairs* 78 (March/April 1999): 34.

[16] Indeed, there is something contradictory in Europeans seeking a return to a global balance of power, in order to restore peace and justice to the international system, when they have rejected the balance of power as the greatest threat to peace and justice on the continent of Europe.

have been checked, too, by fears of alienating the powerful United States, mingled with widespread European suspicions of France's "soft" hegemonism and lingering fears of renewed German power.

In the end, however, Europeans have not sought to counter American hegemony in the usual, power-oriented fashion because they do not find American hegemony threatening in the traditional power-oriented way. Kenneth N. Waltz was wrong in this respect: Not all global hegemons are equally frightening. The danger posed by the United States, as Europeans well know, is not to European security or even to European independence and autonomy.[17] The American "threat" is of an entirely different nature. What Europeans fear is not that the United States wants to control them but that they have lost control of the United States and, therefore, by extension, of the direction of world affairs.

If the United States is suffering a crisis of legitimacy today, the European desire to regain some measure of control over American behavior is a large part of the reason.[18] The vast majority of Europeans objected to the American invasion of Iraq not only because they opposed the war. It was America's willingness and ability to go to

[17] For all the talk about American "empire," Europeans know that the United States does not have imperial ambitions to control the continent of Europe as would-be hegemons have tried in the past, from Louis XIV to Napoleon to Hitler.

[18] Again, the fact that Russia, China, and many nations of Latin America, Africa, and the Middle East opposed the use of American power as illegitimate is not a new phenomenon. What is new and dramatic is the defection of America's European allies to that camp.



war without the approval of the Security Council, which is also to say, without the approval of all Europe, that posed the greater challenge both to the European view of world order and to Europe's ability to exercise even a modicum of influence in the new unipolar system. "A world order cannot function when the national interest of the strongest power is the definitive criterion for the use of that country's power," Joschka Fischer complained. There must be rules to govern the behavior of all nations, he insisted, and these rules "must apply to the big, the medium-sized, and the small nations."[19] As President Jacques Chirac put it, world crises cannot be addressed "by one nation acting alone on the basis of its own interests and judgments. . . . Any crisis situation, regardless of its nature, in any part of the world, is of concern to the whole international community."[20] In these calls for the involvement of the "international community" there is an unmistakable insistence that Europe, in particular, be given a hand on the tiller.

This is not to argue that the European demand that the United States seek international legitimization for its actions is cynical. Because of their own history, and because Europeans now operate within an international organization, the European Union, that requires multilateral agreement on all matters, the European commitment to a legitimacy derived from multilateral negotiation and international legal institutions is sincere, even zealous. But ideals and self-interest frequently coincide, and European

[19] Fischer interview in *Der Spiegel*, March 24, 2003.

[20] Jacques Chirac, televised interview, July 14, 2003.

assaults on the legitimacy of American actions and American power may be an effective if unconventional way of constraining and controlling the American superpower. Legitimacy, writes Cooper, "is as much a source of power as force," and many Europeans undoubtedly hope that this is true.

Certainly "legitimacy" is an asset Europeans believe they have in abundance. It is their comparative advantage in the new geopolitical jostling with the United States, the great equalizer in an otherwise lopsided relationship. The European Union, most of its members believe, enjoys a natural legitimacy, simply by virtue of the fact that it is a collective body. There is both strength and legitimacy in numbers, and in a modern liberal world this legitimacy is something that can be wielded as a substitute for other types of power. It can also be bartered for influence. The United States needs Europe, argues Javier Solana, because Europe is "a partner with the legitimacy that comes through the collective action of a union of twenty-five sovereign states."[21] In return for a greater say in world affairs and greater control of America's exercise of power, Europe can give the United States the legitimacy it now lacks. For many Europeans, in fact, this is the new grand bargain for the unipolar era. Joschka Fischer predicts that Americans will discover in Iraq that "the question of legitimization goes beyond the capabilities of the U.S."[22] But this is more than a prediction. It is also a European bid for influence.

That does not mean that Fischer is wrong, however. He

[21] Javier Solana, "The Future of Transatlantic Relations: Reinvention or Reform?" *Progressive Governance,* July 10, 2003.

[22] Fischer interview, *Die Zeit,* May 8, 2003.



is probably right. The experiment of attempting to invade and then reconstruct Iraq without the broad benediction of Europe has not been a particularly happy one, even if the United States eventually succeeds in Iraq. The United States cannot ignore the question of legitimacy, nor is international legitimacy something the United States can provide itself. So if the United States needs legitimacy, where should it look to find it?

## THE MYTH OF "INTERNATIONAL ORDER"

Since the United States first began openly contemplating the invasion of Iraq, the European answer has been the UN Security Council. "It is from the United Nations alone that the legal and moral authority can come," Dominique de Villepin insisted before, during, and after the war.[23] And there is no doubt that the French foreign minister speaks for the vast majority of Europeans, including Britons, Spaniards, Poles, and Italians and many others in the misnamed "new Europe." Indeed, so powerful is this conviction throughout all of Europe that even America's staunchest ally, Tony Blair, the leader of America's least "European" transatlantic partner, Great Britain, nevertheless considered UN authorization for the invasion of Iraq absolutely essential to satisfy his own public.[24] Presi-

[23] De Villepin address to the UN Security Council, March 19, 2003.

[24] So much so that he sacrificed a great deal of his personal and international political capital in the futile attempt to gain a second resolution explicitly authorizing war.

dent Bush's decision to turn to the United Nations was very much driven by Blair's political needs in the United Kingdom and also by Blair's need for influence on the European continent. "The United Nations is the place where international rules and legitimacy are founded," de Villepin declared at the Security Council in March, "because it speaks in the name of peoples."[25]

Nor is this conviction to be found only in Europe. Americans have a certain reverence for the UN Security Council, too, as polls consistently show. American support is significantly more measured and a good deal more conditional than that of the Europeans, of course: A solid majority of Americans favored bypassing the UN Security Council to invade Iraq.[26] But there is enough support for the United Nations that George W. Bush decided it was wise, at least for the sake of appearances, to seek the Security Council's approval for the Iraq war, and then to return to the Security Council again and again since the war in pursuit of international support—and international legitimacy.

But are the UN Security Council, and the structure of international law it sits atop, really the holy grail of international legitimacy, as Europeans are today insisting? International life would be simpler if they were. But they are not. Ever since the UN was founded almost six decades ago, the Security Council has never functioned as its more idealistic authors intended. Nor in all that time has it been recognized and accepted as the sole source of international legitimacy—not even by Europeans. Indeed, the European demand that the United States seek UN authorization of the Iraq war, and presumably for all future wars, has been a novel, even revolutionary, proposal.

For most of the UN's existence, during the four decades of the Cold War, the Security Council was paralyzed by the implacable hostility between its two strongest, veto-wielding members. Only after the fall of the Soviet Union and the end of the Cold War was it even possible to imagine the Security Council functioning as the sole locus for international authority and legitimacy. Many then hoped that the UN, which was essentially "a pre–Cold War institution," might therefore "become a workable post–Cold War institution."[27]

But the record of the post–Cold War years has been spotty. The first President Bush sought and gained the Security Council's approval in the first Persian Gulf war in 1991, but only after deploying 500,000 troops and making clear that the United States would act without authorization if it had to.[28] The Clinton administration sent troops to Haiti in 1994 without the Security Council's authorization, which came after the fact. In 1998 the Clinton administration bombed Iraq in Operation Desert Fox without a resolution and, indeed, over strong objections registered in the Security Council by France and Russia. There were occasions when the Security Council functioned, but most observers agree that its authority weakened rather

[25] De Villepin address to the UN Security Council, March 19, 2003.
[26] See *Transatlantic Trends 2003*.

[27] Cooper, *The Breaking of Nations*, p. 57.
[28] Had the Soviet Union blocked a resolution authorizing the first Gulf war, no one, including the Soviets, believed Bush would have brought his half million troops back home.

than strengthened over the course of the first decade after the Cold War.

The most interesting case was Kosovo. For in Kosovo it was the Europeans who, along with the United States, went to war without obtaining the legitimizing sanction of the UN Security Council.[29] Nevertheless, most Europeans at the time and ever since have insisted that the Kosovo war was legitimate. They believed Europe in particular had a moral responsibility to prevent another genocide on the European continent. Nor was it an accident that among the strongest proponents of war in 1999 was a German, Joschka Fisher, the head of the intensely moralistic Green Party. For Fischer, as for Gerhard Schroeder and Tony Blair, the dire humanitarian emergency and the brutal behavior of the Serbs overrode the legal requirement for UN authorization. The European response to Kosovo, Robert Cooper writes, was driven by "the collective memory of the holocaust and the streams of displaced people created by extreme nationalism in the Second World War," and this "common historical experience" provided "justification for armed intervention." The fact that this potential genocide was occurring in Europe gave Europeans not only special responsibility, but also special license to go to war to stop it. History and morality trumped traditional principles of international law. "It would be a very different thing," Cooper noted, in a book written after the Iraq war, for Europe "to intervene in another continent with another history." The "European

[29] When NATO went to war against Serbia in 1999, the allies tried but failed to obtain authorization because Russia, Serbia's historic protector, opposed the war.



order is based on a specific European history and the values that flow from it."[30]

The Americans, of course, were perfectly content to go to war in 1999 without UN authorization; indeed, many in the Clinton administration hoped it would set a useful precedent. As the British political scientist Christopher Croker notes, " 'Multilateral if possible, unilateral if necessary' was the catechism of the Clinton administration."[31] Throughout the war itself, the American commander, General Wesley Clark, like most of his American colleagues, expressed a certain impatient disdain for the Europeans' "legal issues." As de Villepin rightly recalls, the Americans, along with Tony Blair's Britain, saw Kosovo "as the first instance of a customary right to intervene on humanitarian grounds without a UN mandate. We, however, saw it as an exception, justified by wide support and the threat of an imminent humanitarian disaster."[32]

But exceptions can be deadly, especially with something as fragile and often violated as international law concerning the use of force. The fact remained that the Kosovo war was illegal, and not only because it lacked Security Council authorization. Serbia was a sovereign state that had not committed aggression against another state, but was simply slaughtering its own ethnic Albanian population. The intervention, therefore, violated a cardinal principle, perhaps *the* cardinal principle, of the UN Charter: the inviolable sovereign equality of all

[30] Cooper, *The Breaking of Nations*, p. 61.

[31] Croker, *Empires in Conflict*: 3.

[32] De Villepin, "Law, Force and Justice," speech delivered at the International Institute for Strategic Studies, March 27, 2003.

nations.[33] That has been the bedrock principle of international law for centuries. The seventeenth-century legal theorist Hugo Grotius had declared the principle of nonintervention the sine qua non of any system of international law. The so-called Westphalian system erected after the devastating religious wars of the mid-seventeenth century enshrined national sovereignty and the principle of noninterference as the prerequisites for international peace. Over the next three centuries, to be sure, the Westphalian system was a bit of a fraud: It is hard to name a single year in the last three centuries when some nation was not interfering in another nation's internal affairs. Still, the principle and theory underlying it were logical if not practicable. For if national sovereignty is not held sacred, and each nation's own sense of justice and morality may lead it to intervene in another country, on what foundation could any legal order be established? Would every nation be its own judge of right and wrong? At the time of the Kosovo conflict, Henry Kissinger warned that "the abrupt abandonment of the concept of national sovereignty" risked a world unmoored from any notion of order, legal or otherwise. "Once the doctrine of universal intervention spreads and competing truths contest, we risk entering a world in which, in G. K. Chesterton's phrase, 'virtue runs amok.' "[34]

[33] Some might point to the Convention on Genocide as providing some legal justification for the war, but the Convention stipulated that nations must "call upon the competent organs of the United Nations" to take such action "under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide." Nations were not supposed to undertake such actions on their own or even in large groups. NATO was not conceived as a substitute for the legal authority of the UN.



But many Europeans at the time rejected this complaint. Robert Cooper, writing in response to Kissinger, has argued that postmodern Europe is "no longer a zone of competing truths." The end of the Cold War has produced "a common set of values in Europe," and these common values have made "postmodern intervention sustainable both morally and practically *in the European context*."[35] In 1999, just four years before the Iraq war, Europeans did not believe international legitimacy resided exclusively at the UN Security Council, or in the UN Charter, or even in the traditional principles of international law, but in common moral values.

Some legal scholars have argued that the Kosovo war was perhaps legal according to an evolving standard of international law that treats imminent human catastrophe as an exception to the rule of nonintervention. But this is the triumph of morality over law. Taking such action in Kosovo, without Security Council approval, left the determination of international justice in the hands of a relatively small number of powerful Western nations. Is that a rules-based system?

It may be worth noting that in reaching its moral conclusion in 1999, Europe did not speak "in the name of peoples." Most of the nations of Latin America, Africa, and the

[34] Henry Kissinger, "The End of NATO as We Know It?", *The Washington Post*, August 15, 1999, B7.

[35] Cooper, *The Breaking of Nations*, pp. 60–61. Emphasis added. "Postmodern intervention" outside the European context, it has become clear, is another matter.

Arab world vigorously objected to the abrogation of the UN Charter in Kosovo, no doubt fearing, correctly, that Western liberal principles of moral responsibility could someday be employed to justify intervention against them. The nations of the North and West thus divided sharply from the nations of the South and East, and, as Michael Glennon has noted, "on the most fundamental of issues: namely, when armed intervention is appropriate." If anything, the Kosovo war demonstrated that "although the UN's rules purport to represent a single global view—indeed, universal law—on when and whether force can be justified, the UN's members (not to mention their populations) are clearly not in agreement."[36]

Glennon, an international legal scholar, has argued that the principle of nonintervention embodied in the UN Charter has been violated so many times over the past six decades that it can no longer qualify as international law; in legal parlance it has fallen into a state of "desuetude." Whether one accepts this view or not, it is certainly true that when the United States and some of its allies went to war against Saddam Hussein in March 2003, the principle that the UN Security Council alone could authorize the use of force had not been established, not even by the Europeans themselves. Secretary of State Colin Powell could well argue, as he did in October 2002, that the United States and its supporters possessed the "authority to intervene in Iraq . . . just as we did in Kosovo." As Glennon notes, the UN Charter "does not permit humanitarian intervention any more than it does preventive war."[37] In 2003 France and Germany and other European nations were demanding that the United States adhere to an international legal standard that they themselves had ignored, for sound moral and humanitarian reasons, a mere four years earlier.

[36] Michael J. Glennon, "Why the Security Council Failed," *Foreign Affairs*, Vol. 82, Iss. 3, May/June 2003.



As the Iraq crisis approached in 2002 and early 2003, many Europeans simply shifted their view of both international law and international legitimacy. Legal scholars might have been working toward establishing new principles to justify humanitarian intervention. But European leaders, knowing well that such principles could be stretched to fit many circumstances, wanted to close all the loopholes. European leaders scuttled away from the moralistic principles they had used to justify war in Kosovo and began demanding a much more rigid adherence to the UN Charter. Joschka Fischer's *volte face* was the most striking, for when confronted by the American invasion of Iraq, Fischer categorically rejected the idea that armed intervention and the violation of a nation's sovereignty could *ever* be justified, even "in cases of gross human rights violations." If intervention in another nation's affairs was to become "the new principle," Fischer now warned, echoing the very arguments made by Kissinger in 1999, "there are numerous candidates. . . . When will [this principle] be applied? By whom will it be legitimized?"[38] Good questions all. But they were good questions in 1999, too.

[37] Michael J. Glennon, "Why the Security Council Failed," *Foreign Affairs*, Vol. 82, Iss. 3, May/June 2003.

[38] Fischer interview, *Die Zeit*, May 8, 2003.

The double standard Europeans applied in the cases of Kosovo and Iraq reveals more than a simple desire to uphold the principles of international law and enshrine the primacy of the Security Council. Javier Solana today insists that Europe's demand for a "rules-based approach" to international affairs "is not a ploy to constrain the U.S.," but surely it is at least partly that.[39]

The controversy over the American invasion of Iraq needs to be viewed in light of this recent history. UN Secretary General Kofi Annan has denounced America's "lawless use of force."[40] But four years ago, in the case of Kosovo, Annan himself articulated a noble principle of humanitarian intervention that placed humanitarian concerns above long-standing international legal traditions.[41] Jacques Chirac has accused the United States of having "undermined the multilateral system," insisting "no one can accept the anarchy of a society without rules."[42] But Chirac was willing to bend those rules in the name of defending Kosovo Albanians from slaughter. Europeans will protest that Kosovo and Iraq were different. Indeed they were. But any "rules-based" international order must apply the same sets of rules to different situations. Otherwise we return to a world where nations individually or in groups decide for themselves when war is and is not justified, guided by their own morality and sense of justice and order.

[39] Solana, "The Future of Transatlantic Relations: Reinvention or Reform?"

[40] Dana Milbank, "At UN, Bush Is Criticized Over Iraq," *The Washington Post*, September 24, 2003, A1.

[41] See Kofi A. Annan, "Two Concepts of Sovereignty," *The Economist*, September 18, 1999.

[42] Milbank, "At UN, Bush Is Criticized Over Iraq."



In fact that is the world we live in, and the only world we have ever lived in. It is a world where those with power, believing they have right on their side, impose their sense of justice on others. This simple reality of international existence is often described simplistically as "might makes right." But are all claims to justice and morality equally valid? The modern liberal, whether residing in Europe or in the United States, does not and cannot believe that, for liberalism has at its core a conviction about justice and morality, defined as the protection of the rights of the individual, without which liberalism itself is meaningless. During World War II, the allied democracies' claim to morality and justice was stronger than that of Hitler's Germany and Imperial Japan. During the Cold War, the liberal West's claim to morality and justice was stronger than that of the Soviet bloc. During the Kosovo war, NATO's claim to morality and justice was stronger than that of Slobodan Milosevic and Boris Yeltsin's Russia. The point is this: A world without a universal standard of international law need not be a world without morality and justice. Indeed, in the real world, the too-rigid application of the principles of international law can impede the pursuit of morality and justice, as the Europeans recognized in the case of Kosovo.

These days most Europeans argue, as do some Americans, that by invading Iraq without the Security Council's approval, the United States has "torn the fabric of the international order." But if there ever was an international order of the kind they describe, then Europe undermined it in 1999, too. In fact, the fabric of this hoped-for international order has yet to be knit.

The point here is not to catch Europeans contradicting themselves. If there has been a certain convenient flexibility in Europeans' definition of what constitutes "legitimacy" in recent years, it is because "legitimacy" is a genuinely elusive and mobile concept. Discovering where legitimacy lies at any given moment in history is an art, not a science reducible to the reading of international legal documents. For modern liberalism, of the kind that animates Americans and Europeans alike, Kosovo, Iraq, and innumerable other international crises of recent years have shown that the search for legitimacy constantly stumbles across a fundamental dilemma that is endemic to both liberalism and liberal internationalism.

The problem is that the modern liberal vision of progress in international affairs has always been bifocal.[43] On the one hand, liberalism has since the Enlightenment entertained a vision of a world peace based on an ever-strengthening international legal system. The success of such a system, however, depends on recognizing the inviolable sovereign equality of all nations, whether big or small, democratic or tyrannical, humane or barbarous. For as Grotius, Hans Morgenthau, and many others have asked, what international law could survive if states may violate one another's sovereignty in the interest of propagating democracy or human rights or any other moral good?

[43] The following discussion of liberalism and international law owes much to the work of Thomas L. Pangle and Peter J. Ahrensdorf in their book, *Justice Among Nations: On the Moral Basis of Power and Peace* (Lawrence, Kansas, 1999.)



On the other hand, modern liberalism has also cherished the rights and liberties of the individual, and has defined human progress as providing greater and greater protection to these rights and liberties across the globe. But in the absence of a sudden global democratic and liberal transformation, that goal can only be achieved by compelling tyrannical or barbarous regimes to behave more democratically and humanely, and sometimes, as in Kosovo, by force. Liberals have also believed, at least since Kant and Montesquieu, that tyrannical regimes tend to be more aggressive and warlike and therefore that global peace ultimately depends not on law but on the spread of political and commercial liberalism.[44] Even modern liberals of a more pragmatic bent have considered interference just and proper under certain circumstances. Thus Edmund Burke wrote after the horrors of the French Revolution, "A more mischievous idea cannot exist than that any degree of wickedness, violence and oppression may prevail in a Country, that the most abominable, murderous and exterminatory Rebellions may rage in it, or the most atrocious and bloody tyranny may domineer, and that no neighboring power can take cognizance of either, or afford succor to the miserable sufferers." Englishmen ought to be the last to insist upon a principle of noninterference, Burke argued, for England owed "its Laws and Liberties . . . to the contrary principle."[45]

[44] Both Kant and Montesquieu believed peace would be based primarily on the rise of commercialism in liberal nations, which would make them unwilling to fight one another.

[45] Letter to Lord Grenville of August 18, 1792, in Harvey C. Mans-

Kofi Annan, looking back on Kosovo, the genocide in Rwanda, and other crises, framed the modern liberal's crisis of legitimacy well. "On the one hand," he asked, "is it legitimate for a regional organization to use force without a UN mandate? On the other, is it permissible to let gross and systematic violations of human rights, with grave humanitarian consequences, continue unchecked?" Annan called the international community's inability "to reconcile these two compelling interests" a "tragedy." But the UN Secretary-General himself discovered no answer to this dilemma, other than to plead with the "international community" to find "consensus."[46]

Given the tension between these two liberal visions, however, what constitutes international legitimacy must always be a matter of dispute within the liberal, democratic world. Kant's vision of "perpetual peace" solved the problem, in theory, by presuming that all the nations in his imagined international system would be free, liberal republics. But the UN Charter, in practice, ignored Kant's prescription and enshrined the "sovereign equality of all its members," regardless of the nature of their governments.[47] The present international legal structure, therefore, does not and arguably cannot conform to liberalism's goal of ameliorating the human condition and securing the rights of all. As Robert Cooper notes, the

field Jr., *Selected Letters of Edmund Burke* (Chicago, 1984); Pangle and Ahrensdorf, *Justice Among Nations*, pp. 184–85.

[46] See Annan, "Two Concepts of Sovereignty."

[47] See Fukuyama, *The End of History and the Last Man*, pp. 281–82.



United Nations was meant "to defend the status quo and not to create a new order."[48]

All modern liberals must wrestle with this dilemma. For Europeans it is a particularly difficult problem. For Europe itself is the Kantian miracle; it has moved beyond the Westphalian order into a postmodern, supranational order. Ironically, while many Europeans now claim to define international legitimacy as strict obedience to the UN Charter and the Security Council, the European Union transcends the UN's exclusive focus on national sovereignty. It is all about interference. As a confederation of free states, the EU is more the fulfillment of Kant's liberal vision than of Grotius's. The "new postmodern European order," Cooper argues, "is based on entirely different ideas" than those on which the United Nations was based.[49] Tony Blair argued at the time of the Kosovo war that Europe must fight "for a new internationalism where the brutal repression of ethnic groups will not be tolerated [and] for a world where those responsible for crimes will have nowhere to hide."[50] If this is the "new internationalism," then the "old internationalism" of the UN Charter is

[48] Cooper, *The Breaking of Nations*, p. 58.

[49] Ibid.

[50] Tony Blair speech to the Chicago Chambers of Commerce, September 1998; Cooper, *The Breaking of Nations*, pp. 59–60. Nor have Europeans limited themselves in such intrusions on national sovereignty to their own continent. The International Criminal Court, which European governments championed, authorizes action against leaders and officials of other nations, even where those nations have not ratified the treaty.

dead. Europeans may have to choose which version of liberal internationalism they really intend to pursue. But whether they choose or not, they must at least recognize that the two paths diverge.

If the United States seeks legitimacy, which of these liberal visions should it aspire to follow? The United States is and always has been less divided on this question than Europeans are today. By nature, tradition, and ideology the United States has always tended toward the promotion of liberal principles in disregard of Westphalian niceties. Like Burke's England, the United States owes its existence, its "Laws and Liberties," to the principle of interference. Nor does the United States depend on a system of international laws as does the European Union, which is itself a structure of international laws. So it is not surprising, despite the American role in inventing the United Nations and drafting the UN Charter, that the United States has never fully accepted the UN's legitimacy, and least of all the UN Charter's doctrine of the inviolable sovereign equality of all nations. The United States has always been acutely jealous of its own sovereignty, but throughout the Cold War, and indeed throughout its history, the United States has been a good deal less concerned about the sovereign inviolability of other nations. It has reserved to itself the right to intervene anywhere and everywhere—from Latin America and the Caribbean to North Africa and the Middle East, from the South Pacific to East Asia and, finally, in the twentieth century, even in Europe. And although the United States is as capable of self-serving hypocrisy as other nations, it has generally justified intervention in the name of defending or spreading the cause



of liberalism. During the Cold War, and much to the dismay of realist thinkers and statesmen from Morgenthau and Kennan to Kissinger, Americans were never willing to accept the legitimacy of the Soviet Union and constantly sought ways to undermine it from within and from without, even at the risk of global instability. An "evil empire" can have no legitimacy and no inviolable rights as a sovereign nation.

The United States in this sense is and always has been a revolutionary power, a sometimes unwitting but nevertheless persistent disturber of the status quo wherever its influence has grown. From the founding generation onward, Americans have looked at foreign tyrannies as transient, destined to topple before the forces of republicanism unleashed by America's own revolution. Even allied dictatorships have been regarded as inherently illegitimate;[51] hostile tyrannies have always been considered fair game. And if most Americans have been oblivious to their own nation's revolutionary impact on the world, the rest of the world has not been. John Quincy Adams, writing from London in 1817, observed, "The universal feeling of Europe in witnessing the gigantic growth of our population and power is that we shall, if united, become a very dangerous member of the society of nations."[52] In the early nineteenth century it was European conservatives

[51] The list of "friendly" dictators ultimately toppled with the connivance of the United States is long. Consider the fates of Ferdinand Marcos, Anastasio Somoza, Manuel Noriega, and the military junta of South Korea, to name a few.

[52] Letter to William Plumer, January 17, 1817, in Worthington Chauncey Ford, ed., *Writings of John Quincy Adams*, Vol. VI, (New York, 1968), p. 143; Lockey, *Pan-Americanism*, p. 159.

like Metternich who feared that the American Revolution, and the French upheaval it helped spark, would ripple outward and fatally engulf their institutions and society. Today it is the forces of conservatism in the Muslim world—the militant fundamentalists—who fear and seek to repel America's corrosive influence. And Europeans, consumed with carrying out radical changes on their own continent, seek stability and predictability in the world beyond. To these Europeans, the United States has once again become a dangerous member of the society of nations.

## FAREWELL, WESTPHALIA

That danger, for Europeans, is encapsulated in the so-called Bush doctrine, with its declaration of confrontation with a global "axis of evil." Many Europeans and some Americans profess themselves shocked that the United States would announce its intention to seek "regime change" in despotic governments, and if necessary at the expense of international law and the UN Charter. But in the light of American history, especially that of the previous half century, could anything be less shocking? The Bush doctrine, such as it is, has sprung naturally out of the liberal, revolutionary American tradition. Does anyone imagine that Harry Truman and Dean Acheson, John F. Kennedy and Ronald Reagan, or for that matter Theodore Roosevelt, Woodrow Wilson, and Franklin Roosevelt, or even Bill Clinton, would have objected to the idea that hostile third world tyrants seeking weapons



of mass destruction should be removed by force, with or without Security Council authorization?[53] The United States has many times toppled tyrannical regimes with less provocation, and less obvious justification. If the liberal vision of securing the rights of all peoples may run afoul of international legal traditions and of the UN Security Council, it should come as no surprise that a liberal nation, such as the United States, might be even more inclined to set aside legal and institutional constraints when it is a matter of defending its own citizens and soil against dictators with deadly arsenals.

Today the problem of legitimacy has been made a good deal more complex by the fact that the emergence of a unipolar era coincided with two other evolving historical phenomena, the increasing proliferation of weapons of mass destruction and the rise of international terrorism—both of which these days seem more threatening to Americans than they do to Europeans. It has been the Bush administration's response to these phenomena, including the so-called doctrine of pre-emption, that has caused the greatest uproar on both sides of the Atlantic.[54]

[53] Bill Clinton, in fact, argued in July 2003 that seeking "regime change" in Iraq was the correct policy if Saddam Hussein did not disarm. Bill Clinton interview on CNN, July 22, 2003.

[54] The term "pre-emption" is not an accurate description of the Bush administration's doctrine. It implies taking action against a nation or group that is about to strike. What the Bush administration did in Iraq was "prevention," which implies taking action even before the decision to strike has been taken by a potentially hostile power, and perhaps well before. This is the harder case from a traditional international legal point of view. For the purposes of this essay, I will use the term "preventive" war.

Many Europeans, and many others around the world, insist the American willingness to take preventive action is the prime example of the superpower's disregard for international law and international order, the epitome of America's new illegitimacy. "Until now," UN Secretary-General Kofi Annan asserts, "it has been understood that when States go beyond [immediate self-defense], and decide to use force to deal with broader threats to international peace and security, they need the unique legitimacy provided by the United Nations." The very "logic" of preventive war, therefore, poses "a fundamental challenge to the principles on which, however imperfectly, world peace and stability have rested for the last fifty-eight years."[55] Set aside for the moment Annan's rendition of the history of the Cold War, with its erroneous assertion that Americans and Europeans accepted the "unique legitimacy" of the United Nations throughout those decades, or even in 1999. The more interesting question is whether new international circumstances have forced not just the United States but also Europeans, and even Kofi Annan himself, to reexamine traditional international legal principles and definitions of "legitimacy."

The idea of preventive war is not new, of course. As Robert Cooper notes, the Bush administration's notion of preventive war is not fundamentally different from "the longstanding British doctrine that no single power should be allowed to dominate the continent of Europe," a principle that justified the launching of the War of the Spanish

[55] Milbank, "At U.N., Bush is Criticized Over Iraq."



Succession in the late seventeenth century.[56] Nor is prevention a novel concept in the modern era. John F. Kennedy threatened preventive action in the Cuban Missile Crisis. In the mid-1980s, following the bombing of the Marine barracks in Beirut, Secretary of State George P. Shultz publicly called for a doctrine of preventive action against international terrorism—and, one might add, with no public outcry from Europe.

Even before the Bush administration publicly enunciated a policy of preventive war in 2002, moreover, there had been a growing body of opinion in the United States, and even in Europe, that preventive action might at times be necessary to meet new international threats, regardless of the fact that such action violated traditional notions of international law and the principles of the Westphalian system. In the United States, it was the renowned liberal just war theorist, Michael Walzer, who argued in 1998 that traditional legal arguments against preventive war looked "different when the danger is posed by weapons of mass destruction, which are developed in secret, and which might be used suddenly, without warning, with catastrophic results." Not only might preventive action be "legitimate" under such circumstances, Walzer argued, with Iraq specifically in mind. But so would "unilateral action" without a Security Council authorization. The "refusal of a U.N. majority to act forcefully" was not "a good reason for ruling out the use of force by any member state that can use it effectively." If Americans were not

[56] Cooper, *The Breaking of Nations*, p. 64.

not ready sometimes to "act unilaterally," Walzer concluded, then "we are not ready for real life in international society."[57]

From the opposite end of the ideological spectrum, Henry Kissinger, the great proponent of the principles of national sovereignty, noninterference, and the sanctity of the Westphalian system, nevertheless argued that such principles now had to be set aside in order to confront changed international circumstances. "The international regimen following the Treaty of Westphalia," Kissinger argued before the invasion of Iraq, "was based on the concept of an impermeable nation-state and a limited military technology which generally permitted a nation to run the risk of awaiting an unambiguous challenge." In the post–Cold War era, however, "the terrorist threat transcends the nation-state," and the proliferation of weapons of mass destruction had made the risk of waiting too great.[58] When Henry Kissinger makes such a pronouncement, the Westphalian system is no more. In fact, the twin dangers of weapons proliferation and terrorism are forcing many to reevaluate both the legality and the legitimacy of the use of preventive force. Javier Solana insists that "the fight against international terrorism . . . has to take place within the rules of international law," but is that possible without significant changes in the rules themselves?[59]

[57] Michael Walzer, "The Hard Questions: Lone Ranger," *The New Republic*, April 27, 1998.

[58] Henry Kissinger, "Iraq Poses Most Consequential Foreign-Policy Decision for Bush," *Los Angeles Times*, August 8, 2002.

[59] Glenn Kessler, "Bush: Israel Must Defend Itself," *The Washington Post*, October 7, 2003, A19.

Robert Cooper, who happens to be one of Solana's top advisers, acknowledges that in a world of proliferating weapons of mass destruction, "following well-established legal norms and relying on self-defense will not solve the problem."[60] And even Kofi Annan has suggested that UN members should begin considering "criteria for an early authorization of coercive measures to address certain types of threats—for instance, terrorist groups armed with weapons of mass destruction."[61] If the United States fears for its safety and wants to take preventive action, Annan is suggesting, it could seek UN Security Council authority for a preventive strike.

Annan's proposal, whatever its practicality, reveals a core truth about international attitudes toward prevention. The real issue may not be prevention itself but who is doing the preventing, and who gets to decide when and where preventive war occurs. In this as in many other cases, what Europeans object to is not so much American actions, but what they consider the "unilateralism" of American actions. The dispute over preventive war is really little more than a recapitulation of the central unipolar predicament: How will the sole superpower be controlled?

[60] Cooper, *The Breaking of Nations*, p. 64.

[61] Kofi Annan speech to the UN General Assembly, September 22, 2003.

## WHAT IS "MULTILATERALISM"?

Most Europeans would argue that if the United States seeks to gain international legitimacy for any use of force, it must avoid acting "unilaterally" and must embrace a foreign policy of "multilateralism." And most Americans would gladly agree—so long as they did not look too closely at what Europeans mean by the term. For when Americans speak of "multilateralism," they mean a policy that actively solicits and gains the support of allies. For most Americans, even those who proclaim themselves "multilateralists," a UN Security Council authorization is always desirable but never essential—"multilateral if possible, unilateral if necessary." It is a means to the end of gaining allied support. It is not, for the vast majority of Americans, an end in itself.

But when Europeans speak of "multilateralism" these days, the term has a much more formal and legalistic cast. To Europeans it means gaining legitimate sanction from duly constituted international bodies before undertaking any action and indeed as an essential prerequisite for action. A recent poll showed a majority of Americans willing to bypass the UN Security Council if America's "vital interests" were threatened. But in the same poll a majority of Europeans insisted that they would abide by a decision of the Security Council even if it meant sacrificing their nation's vital interests.[62]

At least that is what Europeans say today, after the Iraq

[62] See *Transatlantic Trends 2003*.

war. In 1999, when the issue was Kosovo, Europeans felt differently. Once again, it turns out that even for Europeans, with their legalistic, principled understanding of the term, the attempt to define international legitimacy simply as "multilateralism" founders on the same shifting sands as all other simple definitions. For what is "multilateralism"? If it does not mean strict obedience to the UN Security Council, and in 1999 it did not, then "multilateralism" becomes a slippery concept.

What, exactly, made American action in Iraq "unilateral"? The United States, after all, did not act alone in invading Iraq in March 2003 but had a number of international partners, including such prominent members of the European Union as Great Britain, Spain, and Poland. The American action was "multilateral" in some sense, therefore, even without a UN authorization, just as the Kosovo war was "multilateral" despite the lack of Security Council approval. Nor would Europeans have denounced American action in Iraq as "unilateral" had France, Germany, and Great Britain all agreed to support the war but Russia and China had opposed it—just as Europeans did not condemn their own war in Kosovo as "unilateral" just because Russia and much of the developing world were opposed. De Villepin acknowledges that "some powers in the South" opposed the war in Kosovo. The war was nevertheless justified, de Villepin argues, by the "wide support" it enjoyed in Europe.[63] As Cooper suggests, Europeans considered that their near unanimous support for

[63] De Villepin, "Law, Force, and Justice," speech to the International Institute for Security Studies, March 27, 2003.

British and Spaniards supported the United States in Iraq, Fischer acknowledges, but "the decisive question" was whether these countries "can have or ever did have any influence at all."[66] Thus, even if there were one hundred nations on America's side, and even if three-quarters of European nations supported American action, it is the loss of influence over the United States that makes American policy "unilateral."

That is why many Europeans have found so objectionable the Bush administration's references to "coalitions of the willing" as the foreign policy tool of choice for the United States in the future, rather than institutionalized alliances such as NATO. The idea that "the mission determines the coalition" frees the United States from all obligations and from European influence, even if some Europeans are part of the coalition. It is also why many Europeans found so troubling American talk of "old" and "new" Europe; it was viewed as an American strategy of divide-and-conquer, a way of further minimizing the influence of a united Europe, if such a thing were ever to come into existence.

As Javier Solana puts it, "Most of us would prefer to be called an 'ally' or a 'partner' rather than a 'tool' in a box." If the United States will once again consider itself bound to its European allies, Solana suggests, the Europeans will in turn provide it the support and legitimacy it needs. "Treat your friends like allies and they will behave like allies," Javier Solana has argued since the Iraq war. "They allow

[66] Fischer interview, *Die Zeit*, May 8, 2003.



for and legitimize leadership."[67] And although Solana again insists that Europeans in demanding this treatment are not seeking a "de facto European veto on American initiatives," of course they are. No one can blame them for wanting such a veto. Still, when all is said and done, the crisis of legitimacy today is not only about principles of law, or even about the supreme authority of the UN Security Council. It is also very much the product of a transatlantic struggle for influence. It is Europe's response to the unipolar predicament.

## THE LEGITIMACY OF LIBERALISM

It would be tempting for Americans, therefore, to dismiss the whole issue of legitimacy as a ruse and a fraud. During the 2000 presidential campaign, George W. Bush's top foreign policy adviser, Condoleezza Rice, derided the belief, which she attributed to the Clinton administration, "that the support of many states—or even better, of institutions like the United Nations—is essential to the legitimate exercise of power." But as it turns out, even the Bush administration felt compelled to seek European approval for its action, and at the place where Europeans insisted approval be granted, the UN Security Council. Perhaps the Bush administration did not need France and Germany, but it believed it needed the support at least of

[67] Javier Solana, "The Future of Transatlantic Relations: Reinvention or Reform?" *Progressive Governance*, July 10, 2003.

Great Britain. Why? Not because British troops were essential to the success of the invasion of Iraq. It was the patina of international legitimacy Blair's support provided—a legitimacy that the American people wanted and needed, as Bush officials well understood. Nor can there be any question that the Bush administration has suffered from its failure to gain the full approval of Europe, and thus a broader international legitimacy, for the invasion of Iraq—and suffered at home as well as abroad.

There are sound reasons why the United States needs European approval, reasons unrelated to international law, the strength of the Security Council, and the as-yet-nonexistent "fabric of the international order." Europe matters because Europe and the United States remain the heart of the liberal, democratic world. The liberal, democratic essence of the United States makes it difficult if not impossible for Americans to ignore the fears, concerns, interests, and demands of its fellow liberal democracies. American foreign policy will be drawn by American liberalism to seek greater harmony with Europe, *if* Europeans are willing and able to make such harmony possible.

The alternative course will be difficult for the United States to sustain, for it is questionable whether the United States can operate effectively over time without the moral support and approval of the democratic world. This is not for the reasons usually cited. While most American advocates of "multilateralism" have focused on the need for the material cooperation of allies, it is America's need for international legitimacy, defined as the approval of the liberal, democratic world—represented, above all, by Europe—that will in the end prove more decisive in shaping America's course.[68] Whether the United States can "go it alone" in a material sense is an open question. Militarily, it can and does go virtually alone, even when the Europeans are fully on board, as in Kosovo and in the first Persian Gulf war. Economically, it can go alone in the reconstruction of places like Iraq if it absolutely has to—five decades ago, after all, it reconstructed Europe and Japan with its own funds. But whether the American people will continually be willing and able to support both military actions and the burdens of postwar occupations in the face of constant charges of illegitimacy by its closest democratic allies—that is more doubtful.

Americans have always cared what the rest of the world thinks of them, or at least what the liberal world thinks. Their reputation for insularity and indifference is undeserved. Americans were told to care by the founding generation—in their Declaration of Independence, Americans declared the importance of having a "decent respect for the opinion of mankind," by which they meant Europe. Ever since, Americans have been forced to care what the liberal world thinks by their unique national ideology. For unlike the nationalisms of Europe, American nationalism is not rooted in blood and soil; it is a universalist

[68] It is not yet the case that the world's other major liberal democracies, including India and Japan, weigh as heavily in American calculations as does Europe. Whether this is because they are relative newcomers to "the West" or because of cultural and racial prejudices in the transatlantic community is hard to say. But the views of New Delhi do not carry as much weight, or excite as much passion, as the views of Paris.

ideology that binds Americans together. Americans for much of the past three centuries have considered themselves the vanguard of a worldwide liberal revolution. Their foreign policy from the beginning has not been only about defending and promoting their material national interests. "We fight not just for ourselves but for all mankind," Benjamin Franklin declared at America's War of Independence, and whether or not that has always been true, most Americans have always wanted to believe it was true. There can be no clear dividing line between the domestic and the foreign, therefore, and no clear distinction between what the democratic world thinks about America and what Americans think about themselves. Every profound foreign policy debate in America's history, from the time when Jefferson squared off against Hamilton, has ultimately been a debate about the nation's identity and has posed for Americans the primal question: "Who are we?" Because Americans do care, the steady denial of international legitimacy by fellow democracies will over time become debilitating and perhaps even paralyzing.

Americans therefore cannot ignore the unipolar predicament. Perhaps the singular failure of the Bush administration may have been that it has been too slow to recognize this. Bush and his advisers came to office guided by the narrow realism that dominated in Republican foreign policy circles during the Clinton years. The Clinton administration, Condoleezza Rice wrote in a famous essay in January 2000, had failed to focus on the "national interest" and instead had addressed itself to " 'humanitarian interests' or the interests of 'the international community.'" The Bush administration, by contrast, would take a fresh look at all treaties, obligations, and alliances and reevaluate them in terms of America's "national interest."[69]



The notion that the United States could take such a narrow view of its "national interest" has always been mistaken. Americans had "humanitarian interests" before the term was invented. But besides being an analytical error, the enunciation of this "realist" approach by the sole superpower in a unipolar era was a serious foreign policy error. The global hegemon cannot proclaim to the world that it will be guided only by its own definition of its "national interest." For this is precisely what even America's closest friends fear, that the United States will wield its unprecedented vast power only for itself. In her essay, Rice derided "the belief that the United States is exercising power legitimately only when it is doing so on behalf of someone or something else." But for the rest of the world, what other source of legitimacy can there be? When the United States acts in its own interests, Rice claimed, as would many Americans, it necessarily serves the interests of everyone. "To be sure," Rice argued, "there is nothing wrong with doing something that benefits all humanity, but that is, in a sense, a second-order effect."[70] But could even America's closest friends ever be persuaded that an America always pursuing its self-interest can be relied upon to serve their interests, too, as some kind of "second-order effect"?

[69] Condoleezza Rice, "Promoting the National Interest," *Foreign Affairs*, 79 (January/February 2000): 47.
[70] Ibid.

Both the unipolar predicament and the American character require a much more expansive definition of American interests. The United States can neither appear to be acting only in its self-interest, nor can it in fact act as if its own national interest were all that mattered. In the words of the oft-quoted Jewish sage Hillel, "If I am not for myself, who will be for me? If I am not for others, what am I?" The United States must, indeed, act in ways that benefit all humanity, as it has frequently tried to do in the past, and it must certainly seek to benefit that part of humanity that shares America's liberal principles. Even at times of dire emergency, and perhaps especially at those times, the world's sole superpower needs to demonstrate that it wields its great power on behalf of its principles and all who share them.

The manner in which the United States conducts itself in Iraq today is especially important in this regard. At stake is not only the future of Iraq and the Middle East more generally, but also of America's reputation, its reliability, and its legitimacy as a world leader. The United States will be judged, and should be judged, by the care and commitment it takes to secure a democratic peace in Iraq. It will be judged by whether it indeed advances the cause of liberalism, in Iraq and elsewhere, or whether it merely defends its own interests.

No one has made this argument more powerfully, and more presciently, than that quintessential realist, Henry Kissinger. In the same essay where Kissinger made the case for moving beyond the Westphalian system, he also insisted that by leading this new, "revolutionary" approach the United States incurred "a special responsibility." Because of its power, and "precisely because of the precedent-setting nature of this war," Kissinger argued before the invasion, "its outcome will determine the way American actions will be viewed internationally." The task in Iraq, Kissinger argued, was not just to win the war but to "[convey] to the rest of the world that our first preemptive war has been imposed by necessity and that we seek the world's interests, not exclusively our own." America's "special responsibility, as the most powerful nation in the world, is to work toward an international system that rests on more than military power—indeed, that strives to translate power into cooperation. Any other attitude will gradually isolate and exhaust us."

The United States, in short, must pursue legitimacy in the manner truest to its nature, by promoting the principles of liberal democracy, not only as a means to greater security, but as an end in itself. Success in such endeavors will provide the United States a measure of legitimacy in the liberal, democratic world, and even in Europe. For Europeans cannot forever ignore their own vision of a more humane world, even if they are these days more preoccupied with their vision of a strengthened international legal order.

Nor can the United States, in promoting liberalism, fail to take the interests and the fears of its liberal democratic allies in Europe into account. The United States should try to fulfill its part of a new transatlantic bargain by granting Europeans some influence over the exercise of American power—if, that is, the Europeans in turn will wield that influence wisely. The NATO alliance—an alliance of and for liberal democracies—could be the locus of such a bar-

gain, if there is to be one. NATO is where the United States has already ceded influence to Europeans, who vote on an equal footing with the superpower in all the alliance's deliberations. Indeed, NATO has for decades been the one organization capable of reconciling American hegemony with European autonomy and influence. And NATO even today retains a sentimental attraction for Americans, more potent than the attraction they feel for the United Nations.

But can the United States cede some power to Europe without putting American security, and indeed Europe's and the entire liberal democratic world's security, at risk in the process? Here lies the rub. For even with the best of intentions, the United States cannot enlist the cooperation of Europeans if there is no common assessment of the nature of global threats today, and of the means that must be employed to meet them. But it is precisely this gap in perception that has driven the United States and Europe apart in the post–Cold War world.

If it is true, as Robert Cooper suggests, that international legitimacy stems from shared values and a shared history, does such commonality still exist within the West now that the Cold War has ended? For while the liberal transatlantic community still shares much in common, the philosophical schism on the fundamental questions of world order may now be overwhelming those commonalities. It is hard to imagine the crisis of legitimacy being resolved so long as this schism persists. For even if the United States were to fulfill its part of the bargain, and grant the Europeans the influence they crave, would the Europeans, with their very different perception of the world, fulfill theirs? Were Europeans and Americans ever



to agree on the nature of the common threat, the cooperation they managed during the Cold War would not be hard to resume. But so long as Europeans and Americans do not share a common view of the threat posed by terrorism and weapons of mass destruction, they will not join in a common strategy to meet those threats. Nor will Europeans accord the United States legitimacy when it seeks to address those threats by itself, and by what it regards as sometimes the only means possible, by force.

And what, then, is the United States to do? Should Americans, in the interest of transatlantic harmony, try to alter their perceptions of global threats to match that of their European friends? To do so would be irresponsible. Not only American security but the security of the liberal democratic world depends today, as it has depended for the past half century, on American power. Kofi Annan may convince himself that the relative peace and stability the world has known since World War II was the product of the UN Security Council and the UN Charter. But even Europeans, in moments of clarity, know that is not true. "The U.S. is the only truly global player," Joschka Fischer has declared, "and I must warn against underestimating its importance for peace and stability in the world. And beware, too, of underestimating what the U.S. means for our own security."[71]

But the United States has played that role not by adopting Europe's postmodern worldview, but by seeing the world through its own eyes. Were Americans now to adopt the worldview of postmodern Europe, neither the

[71] Joschka Fischer interview, *Stern*, October 2, 2002.

United States nor postmodern Europe itself would long remain secure. Today, most Europeans believe the United States exaggerates the dangers in the world. After September 11, 2001, most Americans fear they haven't taken those dangers seriously enough.

Herein lies the tragedy. To address today's global threats Americans will need the legitimacy that Europe can provide. But Europeans may well fail to provide it. In their effort to constrain the superpower, they will lose sight of the mounting dangers in the world, dangers far greater than those posed by the United States. In their nervousness about unipolarity, they may forget the dangers of a multipolarity in which nonliberal and nondemocratic powers come to outweigh Europe in the global competition. In their passion for international legal order, they may lose sight of the other liberal principles that have made postmodern Europe what it is today. Europeans thus may succeed in debilitating the United States, but since they have no intention of supplementing American power with their own, the net result will be a diminution of the total amount of power that the liberal democratic world can bring to bear in its defense—and in defense of liberalism itself.

Right now many Europeans are betting that the risks from the "axis of evil," from terrorism and tyrants, will never be as great as the risk of an American Leviathan unbound. Perhaps it is in the nature of a postmodern Europe to make such a judgment. But now may be the time for the wisest heads in Europe, including those living in the birthplace of Pascal, to begin asking what will result if that wager proves wrong.