
The Concept of the US National Security and International Law: A View from Moscow

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Increasing the level of international system governance is the key global issue, and the way it is resolved will determine the adjustment of other global problems. The focal nature of this issue has been many times underscored by statesmen and by the resolutions of intergovernmental organizations and NGOs. The UN Secretary General stated in the UN 2000 Progress Report that “more efficient world governance is required, under which I mean joint conduct of international affairs.”

The concept of the foreign policy of Russia stresses the need “to increase the level of governance of the international system”, which provides for “the strengthening of the role of international institutions and mechanisms in the world economy and politics.” International law occupies an important place amongst such institutions and mechanisms. The level of international systems governance greatly depends upon the efficiency of international law.

Increasing the level of international system governance is directly connected with the increase of the role of law and ensuring legality at both the national and international levels. This focal principle has been stressed in the UN Millennium Declaration, adopted at the Millennium Summit in September 2000. The heads of states and governments declared their will “to strengthen respect for the rule of law in international and national affairs....”

Preventive world policy is needed in this respect, aimed at the prevention of catastrophic scenarios. Such policy has to be implemented by the whole of the international community in compliance with the Purposes and Principles of the UN Charter. A contemporary world order may be successfully built up only on a multilateral basis with a wide circle of nations involved—that is, with the participation of the whole international community.

The UN has to play the key role in this process. It is within the UN framework that the foundations of the new world order, and correspondingly, those of the new legal order were formulated by the collective effort of nations at the turn of the 21st century. These basic principles have been stipulated by a number of resolutions adopted by the UN General Assembly in 2000 at its historic Millennium Session. Among these resolutions a special role belongs to the UN Millennium Declaration adopted at the Millennium Summit.

The Purposes and Principles of the UN Charter which “have proved timeless and universal” have been laid down in the foundation of the new world order. Moreover, “their relevance and capacity to inspire have increased, as nations and peoples have

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become increasingly interconnected and interdependent.” Equitable and lasting peace all around the world has to be established on the basis of the mentioned purposes and principles.

The [UN] Millennium Declaration contains principal provisions for understanding the nature of new world order. Heads of states and governments have stated: “We recognize that, in addition to our separate responsibilities to our individual societies, we have a collective responsibility to uphold the principles of human dignity, equality and equity at the global level.” This provision is of special importance for the USA. The USA, having power which exceeds many times the powers of other states, has to bear special responsibility for providing sustainable development to other nations. The concept of US national security must be based upon the above mentioned principle.

The Millennium Declaration has stipulated certain specific ways to obtain the above mentioned goals. A special emphasis should be put upon the fact that factors such as the increase of the general level of compliance with legislation and securing the rule of law in international and home affairs have been placed in the focus of attention. The role and capacities of the United Nations have to be substantially increased with the aim of making the UN a more efficient mechanism of securing peace in international stability.

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The challenges of today provide for the basis of profound changes in the foreign policy of states. Foreign policy has to consider the new interrelationship of the national and common interests of all nations. It is impossible to secure the interests of one particular state without due regard to the common international interests. Increase in the importance of the interests of the international community does not mean infringement of the interests of any particular nation. The major goal is to attain the balance of interests of both sides. This goal is of primary importance, because without reaching it the proper functioning of the international community, as well as of the nations which constitute this community, would be impossible.

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International law is an indispensable instrument for resolving these problems. Common security can be insured in the context of the international legal community, i.e. the community based upon the principles of the rule of law and its supremacy in politics. One of the main tasks of the United Nations is to create international community based upon the rule of law. Kofi Annan, the UN Secretary General, has underscored that the work aimed at creating the international community based upon the rule of law remains one of the main missions of the United Nations.

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Having come to power in 2000, the new American Administration proclaimed that in its future endeavors, it would proceed from the national interests and not from those of some illusory international community. Many eminent experts underline the groundlessness of this approach. F. Cameron, former British diplomat and prominent political scientist, writes: “Contrary to what Condoleezza Rice stated in 2000, there is no contradiction between promoting national interests and a commitment to the interests of a far-from-illusory international community.”

The international community today is a kind of reality, the interests of which must be considered for the nations to make their foreign policy efficient. American scholars of authority recognize that the security of the USA is directly linked today to the global

security and to the strengthening of the international community. “Americans have to make a conceptual breakthrough and recognize the evident fact: they are part and parcel of the international community.”

On 20 September 2001, after terrorist attacks on New York and Washington, President George Bush said: “Either you are with us, or you are with the terrorists.” As it is known, most states declared their solidarity with the USA and its war against terrorism. However, this fact in no way means solidarity with the US Strategy of national security.

The above mentioned position of the US Administration cannot serve as the background for efficient policy. It is being subjected to criticism not only by authors of scientific literature but also by the mass media. Two prominent American experts write that meeting global challenges requires active partnership with allies as well as providing the United Nations and no other international organizations with instruments capable of preventing major conflicts, not least of all because the United States alone is not capable of meeting these challenges.

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The US National Security Strategy, by ignoring the common interests of nations, inflicts a feasible blow upon the world legal order, which is based on the balance of the national and common interests of nations.

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This strategy is incompatible with the main principles of contemporary international law and even with those of the past. American experts recognize that such a strategy presumes a refusal of the international order, which has been shaping international relations since the Treaty of Westphalia (1648). It is incompatible not only with the UN Charter, but also with NATO principles. R. Koen writes that the Bush Administration breaks international law and customs to pieces by stating that it can act in any way for the sake of self-defense. This is an impulse rather than a doctrine.

Many statesmen have criticized the US Administration’s treatment of international law and of the United Nations. G. Schmidt writes that George Bush “has confirmed that his country is not going to consider either the UN, or other international institutions, or the commitments of the USA as far as the ratified agreements are concerned, or with documents signed by the American side.”

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The efficiency of international law is conditioned, first of all, by understanding the need of its existence, which maybe compared to traffic rules that are honored due to the understanding of their necessity [Traffic Lights and International Law: textbook §1.1.C.3.]. If someone should drive a tank in the opposite lane, it would inevitably cause a disaster.

Unfortunately, the political and legal thinking of leaders and the public at large is lagging behind the needs of the day. Building up the international law consciousness is therefore of paramount importance. It is only the building up of public awareness in the spirit of honoring human rights and the rights of other nations that can provide for democracy and legal order at the national and international levels. This argument was included in the UN Resolutions on the Decade of international law [1990–1999].

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The opinion quoted above reveals the intention to get the protection of the mighty state, regardless of its “shameless egoism.” However, history has testified to the fact that

supremacy of one or of several states has never been able to secure either the national interests of other states, nor common international interests. Today a durable world order can be based only on the mutual consent of the international community, the UN being the most representative body of such consent. The democratic world order cannot be achieved without strengthening and expanding the authority of this universal organization.

The USA will be capable of retaining its leading role only by placing its might at the service of the international legal order, only by respecting interests of other states and those of the international community as a whole. In general, a lot will depend upon how the American Administration will bring the new strategy to life, upon how it will respect the realities of the global world. At the end of the day, the USA will understand that it is impossible to ignore traffic rules even if it is driving a tank.

A More Secure World: Our Shared Responsibility
Report of the Secretary-General's
High-level Panel on Threats, Challenges and Change

(Part Four *Synopsis*: A More Effective United Nations
for the Twenty-first Century, at 64–65)

Anand Panyarachun, Chairman

[<http://www.un.org/secureworld>](http://www.un.org/secureworld)

The United Nations was never intended to be a utopian exercise. It was meant to be a collective security system that worked. The Charter of the United Nations provided the most powerful States with permanent membership on the Security Council and the veto. In exchange, they were expected to use their power for the common good and promote and obey international law. As Harry Truman, then President of the United States, noted in his speech to the final plenary session of the founding conference of the United Nations Organization, “we all have to recognize—no matter how great our strength—that we must deny ourselves the license to do always as we please”.

In approaching the issue of United Nations reform, it is as important today as it was in 1945 to combine power with principle. Recommendations that ignore underlying power realities will be doomed to failure or irrelevance, but recommendations that simply reflect raw distributions of power and make no effort to bolster international principles are unlikely to gain the widespread adherence required to shift international behaviour.

Proposed changes should be driven by real-world need. Change for its own sake is likely to run the well-worn course of the endless reform debates of the past decade. The litmus test is this: does a proposed change help meet the challenge posed by a virulent threat?

Throughout the Panel’s work, we have looked for institutional weaknesses in current responses to threats. The following stand as the most urgently in need of remedy:

- ◆ The General Assembly has lost vitality and often fails to focus effectively on the most compelling issues of the day.
- ◆ The Security Council will need to be more proactive in the future. For this to happen, those who contribute most to the Organization financially, militarily and diplomatically should participate more in Council decision-making, and those who participate in Council decision-making should contribute more to the Organization. The Security Council needs greater credibility, legitimacy and representation to do all that we demand of it.
- ◆ There is a major institutional gap in addressing countries under stress and countries emerging from conflict. Such countries often suffer from attention, policy guidance and resource deficits.
- ◆ The Security Council has not made the most of the potential advantages of working with regional and subregional organizations.
- ◆ There must be new institutional arrangements to address the economic and social threats to international security.
- ◆ The Commission on Human Rights suffers from a legitimacy deficit that casts doubts on the overall reputation of the United Nations.
- ◆ There is a need for a more professional and better organized Secretariat that is much more capable of concerted action.

The reforms we propose will not by themselves make the United Nations more effective. In the absence of Member States reaching agreement on the security consensus contained in the present report, the United Nations will underachieve. Its institutions will still only be as strong as the energy, resources and attention devoted to them by Member States and their leaders.
