

GLOBALIZATION AND ORDER IV
Towards an International Moral Order?

by

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In my last column I had argued that US foreign policy has been torn between the realists and the idealists, with the latter having become dominant in the nearly decade long Clintonian years. That they are still a major influence is borne out by two incidents in the current War on Terrorism.

It was reported by Seymour Hersh in the "New Yorker" that on the first night of the air campaign over Afghanistan, an unmanned CIA Predator reconnaissance aircraft identified Mullah Omar's car fleeing Kabul. Lacking the authority to 'push the button', the CIA asked permission to fire from the central command located in Florida. General Tommy Franks, the commander of the operation replied " my judge advocate general doesn't like this, so we are not going to fire"! This must be the first time in military history that a military lawyer's permission has been sought to eliminate the leader of the enemy.

The second incident concerns the demand by the UN Commissioner on Human Rights and Amnesty that they should be allowed to investigate the deaths of the captured foreign Taliban soldiers who died after their uprising in Mazar-e-Sherif. This is also an extraordinary demand, as it suggests that killing anyone in warfare- for that is what the uprising was- requires a human rights investigation.

Clearly the West aided and abetted by the UN and various 'human rights' NGO's seems moving inexorably to creating a moral international order. How did this come to pass? What are the likely consequences? Should we cheer this trend to success? These are the questions I wish to answer in this column.

The corner stone of modern international relations has been recognized to be the Treaty of Westphalia of 1648 which ended the bloody Thirty Years War of religion in Europe. It separated domestic from foreign policy by giving States the right of non-interference in their domestic affairs by their subscribing to the principle "cujus regio, ejus religio"- whoever rules determines the religion of his subjects. It removed religion as an excuse for domestic subversion in the relations between states, and the doctrine of non-interference in the domestic affairs of other states became a corner stone of the international society of nation states in the 18th and 19th century. It was Woodrow Wilson's demand for the principle of self-determination to be a part of his brave new world, which not only marked the end of the Age of empires but also let loose the genie of perpetual ethnic conflict within states in the name of justice. The Westphalian system had no solution to violence within States, as it was concerned with maintaining the peace, leaving the question of justice to domestic contrivances.

The human rights movement which got a tremendous fillip from the activists created during the Vietnam war (for reasons spelled out in my "Unintended Consequences"), by contrast maintained a la Woodrow Wilson that peace would automatically

flow from justice. As they no longer trusted the nation-state to deliver justice they put their hope in some supranational authority to enforce this universal justice. Naturally, as this was in the self-interest of both the United Nations and the worlds' lawyers they rose to this demand, and various conventions were signed which allowed extra territorial jurisdiction for so-called 'human rights' abuses in flat contradiction of the Westphalian principle of non-interference in the domestic affairs of countries which is also enshrined in the UN charter.

The Pinochet case in the UK, when a Spanish judge sought the General's extradition for charges arising from his tenure in office in Chile, was the first nearly successful attempt at trying to enforce this extra-territoriality, while the Kosovo campaign was the first war in this desire to create an international moral order. The latest and most far reaching attempt is to create a permanent International Criminal Court (ICC) to try these so-called 'human rights' abuses. Thus as Henry Kissinger pithily puts it : "the human rights activists trust jurists more than they do statesmen. The advocates of the Westphalian principles trust statesmen more than jurists" ("Does America Need a Foreign Policy? ").

As I have argued in "Unintended Consequences" and in previous columns, what these Wilsonians are seeking is something which predates the modern international system. Till the Reformation, most of Western Europe was a cultural unity as part of Western Christendom, and the established rulers exercised their political power under the moral supervision of the Church. The ideological unity which provided legitimacy to this supervision and allowed it to be efficacious, ended with the Reformation, for thereafter who represented God's will: the Catholics or the Protestants? Whose law should you obey if you were a Catholic in a Protestant country and vice versa? It was this shattering of the commonality of 'cosmological beliefs' which ended the Pope's extra-territorial authority and led to the religious wars, and the Treaty of Westphalia which ended them. In a neat reversal the Wilsonians now want to resurrect a new international moral order claiming the universality of 'human rights'. But as I have been at pains to argue in many previous columns there are no such universal values and the claims for universality for the package of 'rights' being promoted to ensure universal justice turn out to be nothing but the culture specific ethics of a particular Semitic religion. As in the 17th century European "Wars of Religion" any attempt to impose these values upon others- particularly in the non-Christian world- can only lead to the disorder that the Treaty of Westphalia so successfully ended for over two hundred years.

There is of course the Kantian hope that States in a Hobbesian state of nature would agree on a social contract to create a global government which would ensure both global peace and justice. But as Hedley Bull ("The Anarchical Society") rightly notes: " If states are indeed in a Hobbesian state of nature, the contract by means of which they are to emerge from it cannot take place. For if covenants without swords are but words, this will be true of covenants directed towards the establishment of universal government".

If a collective agreement to establish a global moral order is impossible because there are no universal values

that can be appealed to, and if a contractual agreement among States in a Hobbesian state of nature to set up a world government is infeasible, there is only one other route- and it is a traditional route- to create a global order under a single political authority, and that is conquest and the creation of an empire. I examine this alternative in my next column.

But for the moment, I would conclude that the current desire of the Wilsonians to create a global moral order is likely to advance neither the cause of peace nor justice. It is in India's interests and of other developing countries, particularly China to resist this trend. As a start just as India declined to be coerced into the CTBT, it should turn its back on the proposed ICC, and along with China and other like minded countries think about leaving the UN's Human Rights Convention, unless it is reformulated to be- as it initially was meant to be - a set of aspirations, and not the thin edge of the wedge to set aside the Westphalian principle of non-interference in the domestic affairs of countries- which is also enshrined in the UN charter. Also, as I have argued in previous columns, India should be chary of signing any international agreements which give power to supra-national authorities as they will inevitably seek to abrogate the principles of Westphalia.