The World Order and the (Changing) View on Violence as a Legal/Legitimate Means in International Relations

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Preface

Serious studies of the overall character of the post-Cold War order remains in it infancy. We are still too immersed in living it to have any real sense of perspective, since we do not know yet how it culminates. It is not an enclosed period, like e.g. the Renaissance or the interwar period, with a determinate ending. Hence, it is difficult to assign specific characteristics to it. While there have been numerous studies of certain aspects of the present order, dealing with, for example, ethnicity, identity, cosmopolitanism, diaspora, peace-keeping, state sovereignty, human rights, humanitarian intervention, globalisation, integration, regionalisation, democratisation, terrorism and the war against it, weapons of mass destruction, and so on, we still lack the making of any grand evaluation of its potential nature. The present work is an attempt, a few first steps on a long journey, trying to overcome this state-of-the-art. In this essay, focusing on the use of violence, I try to apply a comprehensive perspective of the current world order.

This work is a report from a project that is ongoing and will continue to be so for several years yet. It is also a project dealing with a world order in making, by which we today at the outmost can discern the outline of. Hence, the thoughts and results presented here are, by no means final (if possible at all), but only preliminary and tentative. To be brief, the ideas presented are only partial statements deriving from an ongoing project, regarding ongoing, very turbulent, processes. The text is a bit a "nose-heavy". This is a deliberate choice, since it partly serves as a background to what to come later on, in the coming years.

In fact, the text serves three purposes. First, the text serves as my examination essay for receiving my Master of Laws degree (LL.M) at the Department of Law, the School of Economics and Commercial Law, Göteborg University. Second, it serves as the first chapter in a book, entitled *Seven Essays on Globalisation and Law*, that I am currently finishing. Third, and finally, the text serves as a takeoff for my doctoral work in International Law, which is the aforementioned ongoing project, and also the reason for it being "nose-heavy".

Two persons deserve to be mentioned in this preface, since they have contributed to the preparation of the work. Professor Per Cramér who has served as an encouraging supervisor for the essay and my valuable and intelligent "friend" Ann-Sofie Sten, who among many other things have done the layout of it. To both of you: Thank you very much!

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Mikael Baaz

Introduction

> It was the best of times, it was the worst of times, it was the age of wisdom, it was the age of foolishness, it was the epoch of belief, it was the epoch of incredulity, it was the season of Light, it was the season of Darkness, it was the spring of hope, it was the winter of despair, we had everything before us, we had nothing before us.[1]

Preamble

This essay is about "political orders", historical ones, the current one but also future alternative ones. Above all it is an attempt trying to understand the current turbulent "world order" (in a historical perspective), different agents — such as states and international organisations — understanding of it as well as their will and ability to frame it (for the future).

An understanding of how the contemporary world order came to be what it is and how it may develop in the future, is an exploration of the expansion of the "international society" of European states across the rest of the globe, its transformation from a society fashioned in Europe and dominated by Europeans into the global international society of today, with its nearly two hundred states, the great majority of which are not European. Such an understanding requires a sense of how other societies operated and developed in the past. In fact, our present "international society" is puzzling if looked at in isolation. An adequate understanding of the past and the present is necessary to see what may happen in the future and how we can hope to influence it.[2]

Of particular interest in this essay is the (changing) view on *violence* as a legal, or at least legitimate, means in the conduct of international relations over time. The "established" (read post-WW II) view on (using) violence as a means in international relations is challenged today. This challenge is manifested in the new practice of military intervention in third countries due to humanitarian reasons, so-called "humanitarian interventions", but also, even more profound, in the new interpretation of the right to self-defence, expressed in e.g. art 51, the UN Charter, 1945.[3] The main focus in this essay will be on the latter practice, the "extended" right to self-defence. The new practice of humanitarian interventions I have dealt with elsewhere.[4] Therefore, the phenomenon "humanitarian interventions" is only discussed briefly in this essay.

Before presenting the background to the essay, something should be said about the concept "political order", since it is so fundamental for the rest of this work. The problem of political order has preoccupied man since time immemorial. Ultimately, it is about balancing two values, *freedom*, on the one hand, and, *security*, on the other, against one another. Since more than 5.000

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[1] Charles Dickens: *A Tale of two Cities* (New York: Dodd, Mead and Company Publishers [1859]1925), p. 3.

[2] Cf. Hedley Bull and Adam Watson (eds.): *The Expansion of International Society* (Oxford: Clarendon Press, 1984), p. 1; and, Adam Watson: *The Evolution of International Society* (London: Routledge, 1992), pp. 1f.

[3] Cf. Jan Nederveen Pietersee: "Humanitarian Intervention and Beyond", in Jan Nederveen Pietersee (ed.): *World Orders in the Making: Humanitarian Intervention and Beyond* (London: MacMillan, 1998), p. 4; and, Wil D. Derwey: "Humanitarian Intervention in the 1990s and Beyond: An International Law Perspective", in Jan Nederveen Pietersee (ed.): *World Orders in the Making: Humanitarian Intervention and Beyon*d (London: MacMillan, 1998), pp. 185ff.

[4] See e.g. Mikael Baaz: "Statssuveränitet och humanitär intervention: Oförenliga principer i dagens globaliserade värld? [State Sovereignty and Humanitarian Intervention: Incompatible Principles of Today's Globalised World?]" (Göteborg: School of Business Administration and Commercial Law, Department of Law, 2001); and, Mikael Baaz: "Human Rights or Human Wrongs? Towards a 'Thin' Universal Code of Human Rights for the Twenty-first Century (Göteborg: School of Business Administration and Commercial Law, Department of Law, 2002).

years, complex world orders, with a more or less regulated coexistence, have existed.[5] The "modern" international order, established at the peace negotiations in the cities of Münster and Osnabrück in Westphalia in 1648, is fundamentally based on the sovereign state, which stands as guarantor for the internal order in society.[6] However, the sovereign state in itself does not solve the question about order between different states, the "international order". This problem needs to be dealt with otherwise.

A system of states, an international system, exist, according to Hedley Bull, when two or more states have some contact with and affect one another to such an extent that they are forced to take this into consideration in their political activities. Hence, an "international political order", or, to put it wider, a "world order", is to be considered as the pattern of activity that maintains the fundamental values in a system of states.[7] The Westphalian order in its mature form is best described as an "anarchical society";[8] no superior authority exist (anarchy), but there exist some sort of system of rules ("international law", understood in its widest sense) that states and other agents apply in their mutual relations (society).[9] International political orders, as well as internal ones, are man-made arrangements and are subjects to change over time. Consequently, it is possible to speak about and compare different political orders, in time and space.

Thus, with political order can be understood "both the external organisation of the containing political entities (the world order), and the inherent political rationality (the internal order) that governs these entities from within".[10] Today, internal and external orders, however, are more or less indissoluble. Kjell Goldmann describes the dividing-line between domestic

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[5] Cf. Björn Hettne: *Från Pax Romana till Pax Americana: Europa och världsordningen [From Pax Romana to Pax Americana: Europe and the World Order]* (Stockholm: Santérus förlag, 2003), p. 13.

[6] See the treaties of Westphalia (1648), which can be found on http://www.yale.edu/lawweb/avalon/. The site was visited 2004-04-11. "Questions of prestige", Antonio Cassese writes, "accounted for the choice of two places for negotiating peace: France and Sweden, the former Catholic, the latter Protestant, quarrelled over the question of precedence; consequently France was given priority in Catholic Münster and Sweden in Protestant Osnabrück. However, from the legal point of view, the two treaties made up an integrated whole". Antonio Cassese: *International Law* (Oxford: Oxford University Press, 2001), p. 21.

[7] Hedley Bull: "The Emergence of an Universal International Society", in Hedley Bull and Adam Watson (eds.): *The Expansion of International Society* (Oxford: Clarendon Press, 1984). The focus in this essay will be the more limited aspect international order; i.e. the focus will be more on international society than world society, more on international order than world order, more on international governance than global governance, et cetera. But, borders overlap and change over time, and it is not possible to be as consequent as wished sometimes. Let me exemplify, world order and international order is not the same. The former concept has a wider scope than the latter; world order includes everything included in international order as well as something more; more agents, more issues, more connections between agents and issues on different levels, et cetera. The problem establishing borders between the two concepts increases also due to different processes of globalisation. The indistinctness in terminology can also be explained by the fact that politicians as well as observers of international relations use different concepts inconsequent and interchangeable. But, at the end of the day, it is a difference of degree, not of kind between the two concepts. Hence, when I speak of world order I often mean a limited part of the world order. If not, it will be evident from the context. I will therefore henceforth — in order not to confuse the reader more than necessary — use the concept world order consequently throughout the text (even when I only refer to the a limited part of this world order — i.e. the international order).

[8] Hedley Bull: *The Anarchical Society: A Study of Order in World Politics* (London: MacMillan, 1995, 2nd ed).

[9] Håkan Hydén: *Rättsregler [Rules of Law]* (Lund: Studentlitteratur, 1987), p. 9. Regarding the difference between public and private international law as well as the growing domain of international public law, see e.g.: Peter Malanczuk: Akehurst's *Modern Introduction to International Law* (London: Routledge, 1997), Ch. 1. See also Åke Malmström and Anders Agell: *Civilrätt [Civil Law]* (Stockholm: Liber Ekonomi, 1999), pp. 36ff.

[10] Björn Hettne: *Från Pax Romana till Pax Americana: Europa och världsordningen [From Pax Romana to Pax Americana: Europe and the World Order]*, p. 16.

and international "politics" as nothing more than "a line in water",[11] and Ferguson and Mansbach have argued that, "there is no 'international politics' or 'domestic politics' — there is only politics".[12] Today, this phenomenon, the dissolution of the internal/external-border, is intensively discussed under the label "globalisation".[13]

In a transformative period, when an old order is fading away and a new one is emerging, turbulence often arises. A transformative period contains several alternative futures; simply put, it constitutes a formative period — a crossroad, with different possibilities.[14] After these initial remarks and conceptual drill — to which I will return frequently in the text — let me now turn to an elaboration on the background, research problem, and specific aims of the essay.

Background, Research problem, and Aim

The direct cause underlying this essay is the fact that we currently find ourselves in a state of flux, characterised by the fact that we are leaving an old world order behind and is entering into a new, or at least different one. This transformation is clearly manifested by the legal — but also political, economical, social, and cultural — uncertainty that prevail after the terror attacks towards the heart of the U.S. on the 11th of September 2001 (hereafter 9/11). In the wake of these acts of terror, the American administration explained *war* against international terrorism, the so-called "war on terror", and launched military operations together with UK, towards Afghanistan. As a consequence, the Taliban government was overthrown and the terror network al-Qaeda lost an important retreat and training camp for their "political" struggle.[15] These occurrences, together with the presentation of a reformulated American security policy, the so-called "Bush doctrine",[16] has initiated an intensive debate about the future development of international relations in general and the international legal order, especially the UN-system, in particular.[17] The debate has been even more intensified by the, by the UN, "unsanctioned" military attack on Iraq launched by the U.S. and "the coalition of the willing" in March 2003. On a more overall level these incidents and the following debate accentuate the formation of a new world order, by which we today at the most can discern the outlines of. This (gradually) emerging world order is of special interest in this essay.

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[11] Kjell Goldmann, quoted in Christer Jönsson: "International Politics: Scandinavian Identity Amidst American Hegemony", *Scandinavian Political Studies* (1993), vol. 16, p. 155.

[12] Yale H. Ferguson and Richard W. Mansbach: "Between Celebration and Despair: Constructive Suggestions for Future International Theory", *International Studies Quarterly* (1991), vol. 35, p. 373.

[13] During the 1980s talk on "globalisation" became rife and has been so ever since. It is common to speak about e.g. global markets, global communications, global threats, global governance, global political economy, and so on. However, the conceptualisation of globalisation is rather woolly, it is used vaguely and often inconsistently. To be brief, by globalisation can be meant almost anything and thereby nothing. Accordingly, the concept needs to be specified. When I speak about globalisation in this essay I have in mind: "a process (or set of processes) which embodies a transformation in the spatial organization of social relations and transactions — assessed in terms of their extensity, intensity, velocity and impact — generating transcontinental or interregional flows and networks of activity, interaction, and the exercise of power". David Held, et al.: *Global Transformations: Politics: Economics and Culture* (Cambridge: Polity Press, 1999), p. 16.

[14] Mikael Baaz: "Globalisation, Knowledge Society, and the Future (Design) of Swedish Labour Law" (Göteborg: School of Business Administration and Commercial Law, Department of Law, 2003), passim.

[15] Cf. Katinka Svanberg: "Folkrätten efter den 11 September 2001 [Public International Law after 9/11 2001]", in Gunnar Jervas (ed.): *Terrorismens tid [The Age of Terror]* (Stockholm: SNS Förlag, 2003), p. 143.

[16] *The National Security Strategy of the United States of America* was presented by the White House in September 2002. The document is available on: http://www.whitehouse.gov/nsc/nss.html. The site was visited 2004-04-11.

[17] Werner G. Jeanrond: "Endast USA:s intressen styr [Only the Interest of the U.S. governs]", *Göteborgs-posten* (2003-03-19).

But, the formation of this new world order (in making) started before the acts of terror 9/11. A proper dating reach at least a decade and a half back in time, more precisely to the end of the Cold War, the breakdown of the Soviet Union (USSR), and the dissolution of the bipolar world order that for the last fifty-five years had characterised the international system. Furthermore, the preconditions for the future world order are by no means completed with the 9/11-events. They have, as already indicated, continued to develop by the military attacks by the U.S. and the "coalition of the willing" on Iraq in 2003. They will also, most likely, be affected by future events; such that we can discern the outlines of today (e.g. the development of the common foreign- and security policy of the European Union [EU] and the future relation between the EU and the U.S.) as well as such that we still do not know anything about — yet written up in the clouds.[18]

As argued shortly before, the now ongoing processes of change started back in the late 1980s. One clear manifestation that something new was taking place was the changed attitude towards military humanitarian intervention that took place during the early 1990s. The idea of human rights is as old as the idea that there exists an international legal system. But, until 1945 these rights were primarily considered as internal affairs for each sovereign state and nothing that should be regulated by international agreements. It was first after the end of WW II and through the establishment of the United Nations (UN) that human rights in any greater extent became regulated on the international level. One of the first resolutions accepted by the UN General Assembly (GA) was the Universal Declaration of Human Rights (UNDHR). This was done in 1948. The Declaration contains a list of political, civil, economic, social, and cultural rights. These rights were later specified in two conventions, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICSCR), in 1966.

In spite of these conventions the implementation of human rights was considered to fall within the jurisdiction of each sovereign nation-state. Indeed, states could be criticised for not full-filling the standards of different agreements, but that was about it. Intervention in a third country on humanitarian grounds was indisputable considered an illegal act according to "*the*" international law.[19] This attitude, however, started to change during the beginning of the 1990s, in the wake of the Persian Gulf War, with the launching of operation "Safe Heaven", aiming to protect the Kurds in northern Iraq. By this, human rights were not considered an entirely internal affair anymore and severe violations of them became an international matter in a way that was not the case before. In fact, state sovereignty and human rights attained a more equal status than ever before. The then secretary general (SG) of the UN Pérez de Cuellar wrote in 1991 that,

> it is now increasingly felt that the principle of non-interference with the essential domestic jurisdiction of States cannot be regarded as a protective barrier behind which human rights could be massively or systematically violated with impunity. --- [T]he case for not impinging on the sovereignty, territorial integrity and political independence of States is by itself indubitably strong. But it would only be weakened if it were to carry the implication that sovereignty … includes the right of mass slaughter or of launching systematic campaigns of decimation or forced exodus of civilian populations in the name of controlling civil strife or insurrection.[20]

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[18] Regarding the (construction of a common) European foreign and security policy, see e.g. Karen E. Smith: *European Union Foreign Policy in a Changing World* (Cambridge: Polity Press, 2003); and, regarding the (future) relations between the U.S. and Europe, see e.g. William Shawcross: *Allies: The U.S., Britain, and Europe in the Aftermath of the Iraq War* (New York: Public Affairs, 2004).

[19] The illusive concept of "*the*" (international) law (i.e. the law in force or existing law) is discussed *intra*.

[20] Pérez de Cuéllar, 1991, quoted in Edward Newman: "Realpolitik and the CNN Factor of Humanitarian Intervention", in Dimitris Bourantonis and Jarrod Wiener (eds.): *The United Nations in the New World Order: The World Organization at Fifty* (London: MacMillan, 1995), p. 195.

This statement, possible thanks to an increasing agreement within the UN Security Council (SC), was followed by a number of so-called "humanitarian interventions" under the auspices of the UN the following years. As examples of such interventions can the operations carried out in e.g. Somalia (1992) and Rwanda (1994) serve. The situation in these two countries were considered by the UN SC to constitute threats to the international peace and security, and measures in compliance with Ch. VII, the UN Charter, was taken. But, during the latter of half the 1990s disagreement between the permanent members of the UN SC once again increased, and when the crisis in Kosovo culminated in the summer of 1999 the inability to act was complete. Due to this paralysis, the U.S. and the North Atlantic Treaty Organization (NATO) decided to ignore the SC and bomb the Federal Republic of Yugoslavia (FRY) without any authorisation from the UN. Hereby, the new and fragile praxis of humanitarian interventions, established during the former half of the 1990s, became blur, unpredictable, and without the legality (or legitimacy) of the UN.

The new attitude towards human rights and humanitarian interventions challenges an earlier much more restrictive view of the use of military violence as a legal means in international relations. It implies a deviation from two of the most fundamental principals in the UN Charter, namely the principle about the prohibition of use and threat to use violence and the principle of non-intervention in international relations (see Arts. 2[4] and 2[7]).

This (seemingly) new attitude towards the use of violence as an international political means is also accentuated by the NATO action in Bosnia in 1995. An accentuation that has been even stronger due to the occurrences in the wake of the acts of terror 9/11, not at least United States and United Kingdoms military operations towards al-Qaeda in Afghanistan, and the same countries war against Iraq in 2003, with the ultimate aim to overthrow Saddam Hussein; to bring about a change of regime in a sovereign state.

The military operation carried out by the U.S. and the UK towards Afghanistan implies a new, much more extensive, interpretation of the right to self-defence, Art. 51 the UN Charter. The right to self-defence is one out of two legal exceptions from the absolute prohibition of violence found in the Charter. The other legitimate exception is the use of violence sanctioned by the UN SC in accordance with Ch. VII. This new interpretation of the right to self-defence implies that sovereign states have the right to defend themselves not only towards attacks from other states but also towards grand scale international terrorist acts and states giving shelter to them. Furthermore, the right to self-defence has been stretched over time, far beyond when an attack has been completed. It passed around three weeks between the terror attacks and the American response. Hence, it might be more relevant in this case to speak about retaliation than self-defence. As a consequence, the door also opens for so-called "preventive" self-defence.[21] Such interpretations differ considerably from the traditional interpretation of the right to self-defence, which so far has been very restrictive.[22]

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[21] In the name of clarity, it is necessary to separate between pre-emptive and preventive self-defence. Pre-emptive self-defence, on the one hand, involves the initiation of military action based on a perceived imminent attack and identifies clear advantages in striking first. Preventive self-defence, on the other hand, may be regarded as the use of force by a state in order to avoid the risk of war occurring later under less favourable circumstances. Jack Levy has identified four differences between pre-emption and prevention. (i) While pre-emption is usually a tactical response to an immediate threat, prevention tends to be a strategic response to a longer-term threat, or to one that has yet to develop. (ii) A pre-emptive attack is designed to forestall deployment of existing forces or weapons. Prevention, however, aims to halt the development of new forces or new weapons systems. (iii) In pre-emption, it is the imminent risk of attack by an adversary that leads a state to take military action against that adversary. In contrast, prevention is caused by the gradual deterioration of a state's relative military power and the strategic risk that such deterioration creates. (iv) The incentives to strike first are different in pre-emption and prevention. In pre-emption there is a perceived incentive to strike first. In prevention the incentive to strike first is not necessarily present. Instead, preventive attack may become feasible because of the "margin of safety provided by the preventer's own military superiority". Bernard Brodie, *Strategy in the Missile Age* (Princeton University Press, Princeton, 1959),

If the door was slightly opened regarding the right to preventive self-defence after the military operations against Afghanistan in October 2001, it became wide open after the U.S. led military attacks towards Iraq in March 2003. By the UN SC resolution 1441, which was accepted by an unanimous SC on the 8th of November 2002, Iraq was considered, by opposing as well as interrupting the arms inspection by the UN, to commit serious violations against earlier resolutions from the SC, especially resolutions 687 and 678 from 1991, which were accepted in the wake of the Iraqi invasion of Kuwait in 1990. With resolution 1441 Iraq was given a final, however not time limited, opportunity to fulfil its obligation regarding disarmament and was obliged to immediately, unconditionally and actively cooperate with the UN arms inspectors. If this not was done, Iraq was running the risk of experiencing considerable consequences.[23]

In a report to the SC the Swedish head of the arms inspectors, the today in media very well known Dr. Hans Blix, stated that Iraq had made progress, but that the country still did not fulfilled all its obligations. To make this possible, more time and resources were required, Blix argued.[24] After the presentation of the report, the SC got into a situation where the harmony of interests that had, more or less, existed since the beginning of the 1990s (however declining during the latter half of the decade) came to a definite end. It was not possible to reach a constructive willingness to compromise among the five permanent members of the SC. Hence it was not possible to carry out any military sanctions under Art. 42, the UN Charter. The consequence of this failure was that the U.S. together with a coalition of willing, without sanction from the SC and contrary to *the* international law, started an armed attack towards Iraq. The aim was, according to the aggressors, to guarantee the observance of resolution 1441.[25]

The legal ground for the American-British initiative was that the possession of weapons of mass destruction in opposition to one or several resolutions from the SC is a threat *per se*. Iraq was, according to the U.S. and the UK, assumed to possess such weapons, and, in extension, this was considered as a legitimate motive for an armed attack, a military invasion. The aim of the attack was preventive; a potential aggressor should be anticipated rather than anticipated by. This argument is, however, weak; a fact that both the American and British government seems to be aware of. Consequently, both governments have preferred to use the concept "pre-emptive" rather than preventive self-defence, when speaking about Iraq. But, the concept, as used here, alludes to anticipatory military actions aiming to deter potential threats rather than ward off immediate threats according to the traditional interpretation of the doctrine of self-

pp. 225 and 241; and, Jack. Levy, "Declining Power and the Preventive Motivation for War", *World Politics* (1987), vol. 40, no. 1, pp. 82ff.

[22] The U.S. did not referred to "pre-emptive" self-defence to justify their blockade of Cuba during the so-called Cuban missile crisis, in 1962. Other legal usage regarding this topic is e.g. the Israeli attacks on a nuclear reactor in Iraq in 1981. Israel claimed that Iraq used the reactor to produce nuclear weapons. Accordingly, they considered themselves to have the right to act "pre-emptively". A unanimous SC condemned the action, since it conflicted the international legal apprehension of the time. In 1986 the U.S. adduced the right to "pre-emptive" self-defence in responding a terror attack towards American soldiers in Berlin justifying the bombings that later was carried out towards Libya. The non-allied states ministers of foreign affairs condemned these bombings. Per Sevastik, Sia Spiliopoulou Åkermark, and Inger Österdahl: "Kriget är olagligt och skadar folkrätten [The War is Illegal and Damages International Law]", *Dagens Forskning [Research Today]* (2003) no. 7, p. 8.

[23] Per Cramér, et. al: "Kriget hotar helt rasera FN:s trovärdighet [The War Threats to Demolish the Credibility of the UN]", *Dagens Nyheter* (2003-03-29), p. 4. See also SC res. 1441. The resolution can be found on http://www.un.org/Docs/scres/2002/sc2002.htm. The site was visited 2004-04-11.

[24] See e.g. Hans Blix: *Avväpna Irak [Disarming Iraq]* (Bonnier Fakta: Stockholm, 2004), Ch. 9, especially pp. 204ff.

[25] See e.g. http://www.cnn.com/2003/ALLPOLITICS/03/24/timep.saddam.tm. The site was visited 2005-03-19.

defence. This deterring view has of course not any international legal anchorage, on the contrary.[26] It is up to today something completely unknown to *the* international law. The American administration speaks about pre-emptive attacks, but in substance the attack carried out in Iraq is not pre-emptive, but preventive. Hence, the terminology becomes indistinct.

Parallel legal grounds of justification delivered by the U.S. and UK for their military campaign are that resolutions 678 and 687, from 1991, together with resolution 1441, issued in 2002 by the UN SC, supports a military intervention in Iraq. Such an interpretation is, however, obscure and is supported by very few (non-Anglo Saxon) experts in international law.[27] Resolution 678 authorises the use of violence to liberate Kuwait. But it does not contain any parts supporting disarmament of Iraq. In resolution 687 the peace terms are stipulated. Indeed this resolution contains demands on extensive weapon inspections. But, it does not legitimise the use of violence in the case that Iraq does not fulfil its obligations. Finally, in resolution 1441 it is concluded, as argued above, that Iraq has offended resolution 687 and that the country runs the risk to experience serious consequences if the demands placed on the country is not fulfilled immediately, unconditionally, and actively. This is indisputable. But, there exist no final end for Iraq to fulfil the demands. Nor does the SC give anybody than itself mandate to interpret what is understood by serious consequences or the mandate to any state or coalition of states to attack Iraq on the ground that the country does not fulfil the demands in resolution 1441. From this, taken together, follows that the military attack on Iraq violates *the* international law. What is more, parallels from the military operations against Afghanistan the year before halts. Not at least since the U.S., even if the right to self-defence was stretched considerably, had support from the international community in this case. Hence, it is in this case accurate to speak about general, however, not universal consensus.[28] In fact, it is relevant to speak of a rising *opinio juris*. Even if the measures taken not were legal, they were at least considered as legitimate. In Iraq the U.S., contrary to in Afghanistan, acts self-willed, ignorant and arrogant. In fact, the Bush administration acts on the global level, using the words of Stanley Hoffman, as a "sheriff at the height of his career in combination with a proselytic missionary".[29] This is a development meet with uneasiness by several experts (both Swedish and international ones) on international relations and international law as well as other commentators and observers (politicians and journalists alike), since it runs the risk to undermine the prescriptive international legal system in general and the UN system in particular;[30] and, in extension to destroy the current world order.

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[26] Per Sevastik, Sia Spiliopoulou Åkermark, and Inger Österdahl: "Kriget är olagligt och skadar folkrätten [The War is Illegal and Damages International Law]", p. 8.

[27] Regarding the interpretation of international law, see e.g. Iain Scobbie: "Some Common Heresies about International Law: Sundry Theoretical Perspective", in Malcolm D. Evans (ed.): *International Law* (Oxford: Oxford University Press, 2003), Ch. 2. In this chapter Iain Scobbie compares the New Haven School with Soviet legal theory. See also Christian Reus-Smit: "International Law", *The Globalization of World Politics: An Introduction to International Relations* (Oxford: Oxford University Press, 2005), pp. 359ff.

[28] See art. 38.1b, the Statute of the International Court of Justice (ICJ), 1945.

[29] Stanley Hoffman (2003): "Why Don't they Like Us: How America has Become the Object of Much of the Planet's Genuine Grievances- and Displaced Discontents", *Third World Traveller*, p. 1. The article is available on: http://www.thirdworldtraveler.com/Sept_11_2001/Why_Don't_They_Like_Us.html.. The site was visited 2004-04-11.

[30] Per Cramér, et. al: "Kriget hotar helt rasera FN:s trovärdighet [The War Threats to Demolish the Credibility of the UN]"; Stanley Hoffman: "On the War", *The New York Review of Books* ((2001). The article is available on: https://nybooks.com/articles/14660; Stanley Hoffman "Why Don't they Like Us: How America has Become the Object of Much of the Planet's Genuine Grievances- and Displaced Discontents"; Zizek, Slavoj: "Försvara USA mot USA [Defend the U.S. towards the US]", *Dagens Nyheter*, 2003-03-26; and, Jonathan Steele: "The Bush Doctrine Makes Nonsense of the UN Charter", *The Guardian* (2002-06-07). The article is available on http://www.guardian.co.uk/bush/story/0,7369,728870,00.html. The sites were visited 2004-04-11.

If the American-British argumentation regarding a connection between pre-emptive/preventive self-defence and possession of weapons of mass destruction is accepted, the established "international regime" on questions of disarmament,[31] which so far has been based on obligations of individual states in the form of different agreements and there to associated mechanisms of supervision, including the work made by the International Atomic Energy Agency (IAEA), is challenged.[32] From this new approach that the U.S. and UK tries to establish, follows that disarmament is more efficiently achieved through the use of uni- or plurilateral violence, or threat to use it, than through multilateral agreements, which has been the strategy used so far. This view is, needless to say, not only questionable, but also dangerous.

The more far-reaching consequences of the new attitude regarding the prohibition of violence found in article 2(4), the UN Charter, and the extended right to self-defence (including pre-emptive and preventive attacks) as well as the today, at least formally speaking, finished Iraqi war and capturing of the former dictator Saddam Hussein is not yet, as indicated above, possible to discern in detail. This can be done only later on, in maybe ten to twenty year's time.[33] At most, possible "lines" of development and alternative scenarios can be identified. However, what seems to be beyond doubt, at least in the short run, is that the U.S. more and more chooses to act unilaterally. Such behaviour will most likely affect the current world order and, in extension, the future one.

One reason for the U.S. to choose this path is the artificial and mistaken connection between the war against international terrorism, on the one hand, and, the war against Iraq case, on the other. It was and still probably is very few outside the U.S. that understands the connection between these two issues. As a matter of fact, not very many inside the U.S. understand it either. The new international terrorism was considered to be a common international problem, and the war against it received almost universal support. However, the removal of Saddam Hussein, regardless how desirable it might be, was and still are considered by Europeans as well as others a monomania of the Bush administration, and, as a matter of fact, a deviation from the common (global) struggle against international terrorism.[34] The collected picture of problems does not wane taking into consideration the enormous problems facing the occupiers and the newly elected Iraqi government regarding to establish order in the country.[35]

The point of departure for this essay is that the current situation in the world constitutes a highly formative point for the formation of the future world order. This formative period, the latest one in a long chain of predecessors, started, as argued, back in the 1980s, was manifested with the end of the Cold War and the upheaval of the bipolar world order, and has now reached a critical point with the current American attempts creating a unipolar world order — a *Pax Americana*, or even worse, an American Empire.[36] The war in Iraq constitutes the first

[31] For a theoretical discussion about the "regime" concept, see e.g. Mikael Baaz: *A Meta-theoretical Foundation for the Study of International Relations in a Global Era: A Social Constructivist Approach* (Göteborg: Padrigu Papers, 2002); Barry Buzan: "From International System to International Society: Structural Realism and Regime Theory Meet the English School", *International Organization* (1993), vol. 47, no. 3; and, Stephen D. Krasner: "Structural Causes and Regime Consequences: Regimes as Intervening Variables", in Stephen D. Krasner (ed.): *International Regimes* (London: Cornell University Press, 1983).

[32] Per Sevastik, Sia Spiliopoulou Åkermark, and Inger Österdahl: "Kriget är olagligt och skadar folkrätten [The War is Illegal and Damages International Law]", p.8.

[33] Cf. Niklas Ekdal: "Profet för den fria världen [Prophet for the Free World]", *Dagens Nyheter*, 2005-02-24.

[34] Björn Hettne: *Från Pax Romana till Pax Americana: Europa och världsordningen [From Pax Romana to Pax Americana: Europe and the World Order]*, p. 167.

[35] See e.g. Fredrick D. Barton and Batsheba Crocker: "Winning the Peace in Iraq", *The Washington Quarterly* (2003), vol. 26, no. 2, pp. 7-22.

[36] Mikael Baaz: *A Meta-theoretical Foundation for the Study of International Relations in a Global Era: A Social Constructivist Approach*, pp. 2ff, Ch. 1, pp. 179ff, and pp. 201ff; Mikael Baaz: "Statssuveränitet och humanitär intervention: Oförenliga principer i dagens globaliserade värld? [State Sovereignty and Humanitarian

application in practice of the Bush Doctrine, which is the most unrestrained official expression so far of the foreign policy ambitions of the current U.S. administration; allowing only two positions for other states, namely: obedience or revolt. Countries are, in the terminology of George W. Bush, either with or against the U.S.

A great deal of the debate today is focused around the important question of how the war-torn Iraqi society shall be reconstructed and governed — i.e. how "peace shall be won".[37] It is, however, not only Iraq that needs to be reconstructed and governed, but also the currently so uncertain world order. In here lies the overall and in the long run most interesting and challenging problem for practioners and observers of world politics, interested in "global governance" (preliminary understood as promoting, regulative, and intervening measures in the common affairs of humanity). Of perhaps most interest in principal is the question of how the only remaining superpower, or perhaps more correct "hyperpower",[38] the U.S., can be convinced to conform to the international legal order in general and the UN system in particular, or, more utopian, contribute to the (re)construction of a more progressive and just future world order. Differently put, how shall the U.S. at the expense of its national sovereignty and, as it is understood by the current American administration, national security be made to accept a multilateral world order, characterised by cooperation and justice, law and order, rather than the right of the strongest and extended (arbitrary) use of violence — in extension a *bellum omnium contra omnes*? These issues, the characteristics of the future world order as well as the role of the U.S. and Europe in the same are discussed upon in this essay.

The main questions to be dealt with in this essay can be phrased as follows: *How can the seemingly new attitude towards the use of violence that we se today, manifested in e.g. the new interpretation of the right to self-defence, be explained or understood?* Furthermore, *what does this new attitude mean for the shape of the future world order, and ultimately, how can this future be made different?* An alternative formulation of the problem at stake is: *How shall the balance between security and freedom on the international level be dealt with (in the future)?* To summarise and be more straightforward, *what does the new attitude towards the use of violence as an acceptable means in international relations implies for the future world order?*

Meta-theoretical Point of Departures, Theoretical Frame, and some Concept Definitions

Given the above described situation it is, as already argued, difficult, at least with any degree of certainty, to give an opinion in which direction the future world order will develop. Do we face a spring of hope or a winter of despair? On the one hand has the fragile multilateralism that saw the day of light after the end of the Cold War been seriously challenged by American unilateralism, or possibly American-British bilateralism (or narrow atlanticism). Such a development indicates that we are facing a winter of despair, where the right of the mighty

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Intervention: Incompatible Principles of Today's Globalised World?]"; Björn Hettne: *Från Pax Romana till Pax Americana: Europa och världsordningen [From Pax Romana to Pax Americana: Europe and the World Order]*; Noam Chomsky: *Hegemony or Survival: America's Quest for Global Dominance* (New York: Metropolitan Books, 2003); Michael Klare: *Blood and Oil: The Dangers and Consequences of America's Growing Petroleum Dependency* (New York: Metropolitan Books, 2004);Chalmers A. Johnson: *The Sorrows of Empire: Militarism, Secrecy, and the End of the Republic* (New York: Owl Books, 2005); and, Walden Bello: *Dilemmas of Domination: The Unmaking of the American Empire* (New York: Metropolitan Books, 2005).

[37] See e.g. Catherine Gordon: "Put Iraq Humanitarian Assistance and Reconstruction Under U.N. Control" (2003). The article is available on: http://www.pcusa.org/washington/030424-gs-q2.htm; and F. William Engdahl: "The Neo-cons now want to 'rebuild' Iraq" (2003). The article is available on: http://www.currentconcerns.ch/archive/2003/03/20030303.php. Both sites were visited 2005-03-19.

[38] The concept hyper power (hyperpuissance) is traditionally attributed to Hubert Védrine, who has been French minister of foreign affairs as well as adviser to the French president Mitterand.

rather than any form of international legal order, including a functioning UN-system, prevails. On the other hand, such a development is neither unambiguous nor definitive in the sense that it follows some sort of "natural law". The current division of Europe can indeed be interpreted as the death of the common foreign and security policy of the EU. But the same occurrence can be interpreted the other way around. The common foreign and security policy was rather born when the U.S. was challenged; it is a reality only if is not dictated by the U.S.[39] Hence, the future development is complex and can be understood in several, sometimes opposite, ways; it is also possible to influence. To be straightforward, the future can be designed in different ways. The future world order is socially constructed and not given in advance; to paraphrase, the well-known scholar of International Relations, Alexander Wendt: *The future becomes what states and other agents make of it: The social construction of world order.*[40]

Social Constructivism

The meta-theoretical point of departure for this essay is to be found in Social Constructivism; in *Neo-classical Social Constructivism* to be more precise. This point of departure can, simply put, be described as a perspective assuming that "the manner in which the material world shapes and is shaped by human action and interaction depends on dynamic normative and epistemic interpretations of the material world".[41]

This is not the place, nor the time to elaborate the interesting concept of Social Constructivism in length,[42] so I have done so elsewhere.[43] One aspect of this perspective,

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[39] Björn Hettne: *Från Pax Romana till Pax Americana: Europa och världsordningen [From Pax Romana to Pax Americana: Europe and the World Order]*, p. 167.

[40] The paraphrase is based on the title of Alexander Wendt's article "Anarchy is what States Make of it: The Social Construction of Power Politics". This article, published in the well-reputed journal *International Organization* in 1992 is one of the most cited articles in the wide and diverse field studying World Politics during the last decade.

[41] Emanuel Adler: "Seizing the Middle Ground: Constructivism in World Politics", *European Journal of International Relations* (1997), vol. 3, no, 3, p. 322.

[42] Social constructivism has been categorised as one of the most interesting and promising theoretical innovations during the last centuries in trying to understand the current world system. Steve Smith: "Reflectivist and Constructivist Approaches", in John Baylis and Steve Smith (eds.) *The Globalization of World Politics: An Introduction to International Relations* (Oxford: Oxford University Press, 2001), p. 242. Roughly speaking, the Social Constructivst approach can be divided into two main categories: Naturalistic and Neoclassical Social Constructivism. The former category is advocated by e.g. Alexander Wendt and David Dessler. See e.g. Alexander Wendt: "The Agent-Structure Problem in International Relations Theory", *International Organization* (1987), vol. 41, pp. 335-370; Alexander Wendt: "Bridging the Theory/Metatheory Gap in International Relations", *Review of International Studies* (1991), 17, pp. 383-392; Alexander Wendt: "Anarchy is What States Make of It: The Social Construction of Power Politics", *International Organization* (1992), vol. 46, pp. 391-425; Alexander Wendt: "Collective Identity Formation and the International State", *American Political Science Review* (1994), vol. 88, no. 2, pp. 384-396; Alexander Wendt: "Constructing International Politics", *International Security* (1995) vol. 20, no. 1, pp. 71-81; Alexander Wendt: *Social Theory of International Politics* (Cambridge: Cambridge University Press, 1999); and, David Dessler: "What is at Stake in the Agent-Structure Debate", *International Organization* (1989), vol. 43, no. 3, pp. 441-473. The latter category of Social Constructivism is advocated by e.g. Nicholas G. Onuf, John Gerard Ruggie, Friederich Kratochvil, and Mikael Baaz. See e.g. Nicholas G. Onuf: *World of Our making: Rules and Rule in Social Theory and International Relations* (Columbia: University of South Carolina Press, 1989); Nicholas G. Onuf: "Constructivism: A User's Manual", in Vendulka Kubálková, Nicholas Onuf and Paul Kowert (eds.): *International Relations in a Constructed World* (New York: M. E. Sharpe, 1998); John G. Ruggie: *Constructing the World Polity: Essays on International Institutionalization* (London: Routledge, 1998); Friedrich Kratochvil: *Rules, Norms and Decisions: On the Condition of Practical and Legal Reasoning in International Relations and Domestic Affairs* (Cambridge: Cambridge University Press, 1989); Friedrich Kratochvil: "Memory, Identity, and Action: Critical Reflections on the Second Great Debate and Theory-development in International Relations Analysis", http://web.clas.ufl.edu/users/oren/ Conference_ abstracts.html (2002); Mikael Baaz: "Some Ontological Remarks on the Study of Global Social Relations from the Perspective of International Political Economy of Development", in Michael Schulz (ed.):

however, deserves to be elaborated here, since it has deep an impact on the argumentation presented *intra*, and is something that I have not discussed elsewhere in any length. What I have in mind is the effects of accepting Neo-classical Social Constructivism on what is understood as *the* (international) law, a concept that is notoriously difficult and highly controversial in the legal debate.[44]

Social Constructivism meets Scandinavian Realism

The question about what *the* law is or, differently put, what it is that characterise *the* law, is a question that has attracted the greatest attention in the modern legal theoretical literature, and the opinions differs fundamentally depending on who is giving the answer, advocates for Natural Law, Positivists, Realists, Marxists, System Theorists, Hermeneutics, et cetera. No consensus exists.[45] If, as done in this essay, Neoclassical Social Constructivism is chosen as the meta-theoretical point of departure is becomes most natural to chose the view of *the* law found in *Scandinavian Realism*, since the two perspectives in fact are very close to one another. A nearness, or compatibility, that, at least as far as I know, not has been elaborated before. A short excursion on the topic is therefore justified.

Scandinavian Realism can, simply put, be understood as a reaction toward "natural law" thinking and "legal positivism" respectively, the two most influential legal philosophies in the legal debate during the 20th century. Legal rules are, advocates for Scandinavian Realism argues, considered not to be the expression of someone's (like e.g. Gods or the legislators) will, but rather as "independent imperatives", i.e. a sort of "commands without a commander". They are followed not due to some mysterious power, but due to social psychological suggestion, i.e. members of a society are through "upbringing" and constantly repeated observation, that the

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Peace and Development: Their Interrelationship in the Global System: An Inventory of Peace and Development Research at Padrigu (Göteborg: Padrigu Papers, 1999); Mikael Baaz: "Meta-theoretical Foundations for the Study of International Relations from the Perspective of the New Political Economy of Development", *Journal of International Relations and Development* (1999) no. 2, vol. 4, pp. 461-471; Mikael Baaz: *A Meta-theoretical Foundation for the Study of International Relations in a Global Era: A Social Constructivist Approach*; and, Mikael Baaz: "Ontological Proposals for the Study of Global Social Relations From the Perspective of International Political Economy of Development". Paris: Gemdev. Pdf-format: http://www.eadi.org/gc1999.htm (2003). The websites referred to in this note wear all visited 2004-05-03.

[43] For a more thorough discussion about Social Constructivism, see Mikael Baaz: *A Meta-theoretical Foundation for the Study of International Relations in a Global Era: A Social Constructivist Approach*. In this book the Neo-classical version of Social Constructivism is developed into a coherent meta-theoretical foundation for the study of Global Social Relations, including International Relations and International Law, in a global era.

[44] In Legal Science, Social Constructivism is often labelled Legal Constructivism. The two concepts are not identical, but they more or less overlap. See Mats Glavå and Ulf Petrusson: "Illusionen om rätten! Juristprofessionen och ansvaret för rättskonstruktionerna [The Illusion about Law! The Legal Profession and the Responsibility for the Legal Constructions]", in *Erkjennelse og Engasjement. Minneseminar for David Roland Doublet (1945-2000) [Acknowledgement and Engagement. Memorial Seminar for David Roland Doublet (1945-2000)]* (Publisher unknown, 2001). The (Scandinavian) Legal Realist Axel Hägerström cleared the way for social or legal constructivism in Law with statements such as "the legal order is in its whole nothing else than a social machinery, in which the cogs are human beings". Axel Hägerström (1939) quoted in Glavå och Petrusson: "Illusionen om rätten! Juristprofessionen och ansvaret för rättskonstruktionerna [The Illusion about Law! The Legal Profession and the Responsibility for the Legal Constructions]", p. 114. For an overview of Scandinavian Legal Realism in general and the works of Axel Hägerström in particular, see e.g. Ivar Strahl: *Makt och rätt: Rättsidéns gång genom historien [Makt och rätt: Rättsidéns gång genom historien. Från Babylonien till F.N. En överblick [Power and Law: The Path of the Legal Idea through History. Fom Babylonia to the UN. An Overview]* (Stockholm: Aldus/Bonniers, 1962), Ch. 17; and Tore Strömberg: *Rättsfilosofins historia i huvuddrag [The Main Outlines of Legal History]* (Lund: Studentlitteratur, 1989).

[45] Stig Strömholm: *Rätt, rättskällor och rättstillämpning: En lärobok i allmän rättslära [Law, Sources of Law, and Application of the Law: A Reader in General Jurisprudence]* (Stockholm: Nordstedts Juridik, 1996), p. 25. For an overview and presentation of different perspectives' apprehensions of the concept "the" law this book is very thorough.

rules mainly are accepted and followed, predisposed to accept them. Hence, legal rules are not followed due to their creation, but due to the fact that they are apprehended as valid — cf. *opinio juris*.[46]

Legal, as well as other, rules are man made. Agents, structures and rules are parts of a totally interactive process. Schematically, the process can be described in the following way: *Agents make rules — rules form structures — structures form orders — orders form agents — agents interact, informed and socialised by rules and thereby upholds or changes orders*.[47] Such an understanding of the concept *the* law, emphasising the dynamic character of (international) law, underlies this essay.

Normative, Empirical and Constructive Problems and Theories

The normative point of departure for this essay is that I find it valuable to establish a world order characterised by multilateralism and justice rather than unilateralism, alternatively plurilateralism, based on the right of the strong and more or less arbitrary use of (military) violence. This utopia of mine can be characterised as a *(just) legalistic neo-Westphalian multilateral world order*. Furthermore, I am convinced that such a *utopia* implies loyal participations of the strong nation states of the world, not at least the U.S. More about this *utopia* and what can be done to realise it follows in the last chapter of this work.

International relations and international law can, analytically speaking be studied in three different ways: "empirically", normatively", and "constructively".[48] Each category of problem and theory deals with different questions. If the focus is *empirical* the interest is directed towards describing the world order and trying to explain or understand it (something like *de lege lata*). If the focus instead is *normative*, the searchlight is directed towards how the world order ought to look like and how it can be justified (more or less *de lege ferenda*). Finally, if we as scholars are interested in how a future world order can look like, the focus is *constructive*, i.e. we are interested in giving recommendations of how we can achieve as much as possible of what we desire, given that world looks the way it does. Alternative labels to the constructivist approach might be "realistic utopianism" or "liberal realism".[49]

The categories of problems and theories are merely analytical constructions and in reality the categories do overlap one another. In this essay, given the aim outlined earlier, all three categories are included. If I shall be able to say something about the future world order, how it ought to be and how this can be achieved, both "ought" and "can" questions must be dealt with. It is, from my point of view, meaningless to discuss the characteristics of a future world order if no respect is paid to what it actually can be. Furthermore, it is highly inappropriate, not to say unethical, trying to answer the question what a future world order might look like without paying respect to if it is desirable if it actually ought to look this way. The idea that it would be possible to go directly from normative to constructive theory is, at best, meaningless, and, at worst, dangerous. It is neither possible to go directly from empirical to constructive theory, because then we exclude the human ability to self-reflection and to act differently. Hence, constructive theory, which can serve as a foundation for practical advices (i.e. policy

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[46] Op.cit, pp. 100ff.

[47] See Mikael Baaz: *A Meta-theoretical Foundation for the Study of International Relations in a Global Era: A Social Constructivist Approach*, Ch. 4, especially fig. 4.4.

[48] Similar ways to describe this phenomenon exists. Thus, Claes Martinsson (2002) speaks about: "norm", "fact", and "value" while Hannu Tolhonen speaks about three dimensions of law, a normative, a moral, and a societal real dimension. Further alternatives exist. For a summary, see Claes Martinsson: *Kreditsäkerhet i fakturafordringar: En förmögenhetsrättslig studie [Credit Security in Receivables: A Study in Property of Law]* (Uppsala: Iustus förlag, 2002), pp. 75ff.

[49] This section is heavily inspired by Lennart Lundquist: *Det vetenskpaliga studiet av politk [The Scientific Study of Politics]* (Lund: Studentlitteratur, 1993), Ch. 3, especially figure 11, p. 85; and, Lennart Lundquist: *Demokratins väktare [The Guardians of Democracy]* (Lund: Studentlitteratur, 1998), pp. 27f.

recommendations), must be based on empirical as well as normative theory — practical advices must be constructively based.[50]

The Concept of World Order Revisited

On an operative theoretical level this essay is, as indicated previously, heavily influenced by the so-called *English* (Historical) *School* of International Relations (hereafter only the English School).[51] In the forefront of this theoretical approach we find scholars like: Martin Wight, Hedley Bull, and Adam Watson.[52] Among the predecessors to it, we find classical theorists such as Emmerich Vattel and Hugo Grotius among others.[53] The English School, which focuses on the phenomenon world order, takes it point of departure from the, earlier introduced, concept "international society". By this concept is understood:

> … a group of states (or more generally, a group of independent political communities) which not merely form a system, in the sense that the behaviour of each necessary factor in the calculations of the others, but also have established by dialogue and consent common rules and institutions for the conduct of their relations, and recognise their common interest in maintaining these arrangements.[54]

Thus, the concepts "system" and "society" are possible to separate. If this is done it is clear that the concept international system is more basic and that it precedes an international society. World order can then, as indicated earlier, be understood as the (collected) pattern of

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[50] Lennart Lundquist: *Det vetenskpaliga studiet av politk [The Scientific Study of Politics]*, p. 85; Lennart Lundquist: *Demokratins väktare [The Guardians of Democracy]*, p. 28; and, Bo Rothstein: *Vad bör staten göra? Om välfärdsstatens moraliska och politiska logik [What ought the state do? About the Moral and Political Logic of the Welfare State]* (Stockholm: SNS förlag, 1994), pp. 12ff, especially figure 1.1, p. 24.

[51] This Paradigm is also labelled "Rationalism" and "International Society" in the heterogeneous literature trying to categorise different approaches to the academic study of international relations.

[52] See Martin Wight: "Western Values in International Relations", in Herbert Butterfield and Martin Wight (eds.): *Diplomatic Investigations: Essays in the Theory of International Politics* (London: George Allen and Unwin, 1966); Martin Wight: *Power Politics* (New York: Penguin, 1986, 2ⁿᵈ ed.); Martin Wight: *International Theory: The Three Traditions* (ed. by Gabriele Wright and Brian Porter) (Leicester: Leicester University Press, 1991); Martin Wight: "Why is There no International Theory?", reprinted in James Der Derian (ed.): *International Theory: Critical Investigations* (London: MacMillan, 1995); Hedley Bull: "The Grotian Conception of International Society", in Herbert Butterfield and Martin Wight (eds.): *Diplomatic Investigations* (London: Allen and Unwin, 1966); Hedley Bull: "International Theory: The Case for a Classical Approach", in Klaus Knorr and James N. Rosenau (eds.): *Contending Approaches to International Politics* (Princeton: Princeton University Press, 1969); Hedley Bull: "The Theory of International Politics, 1919-1969", in Brian Porter (ed.): *The Aberystwyth Papers: International Politics 1919-1969* (Oxford: Oxford University Press, 1972); Hedley Bull: "Martin Wight and the Theory of International Relations. The Second Martin Wight Memorial Lecture", *British Journal of International Studies* (1976) vol. 2, no. 2; Hedley Bull: "The Emergence of a Universal International Society", in Hedley Bull och Adam Watson (eds.): *The Expansion of International Society* (Oxford: Clarendon Press, 1984); Hedley Bull: *The Anarchical Society: A Study of Order in World Politics* (London: MacMillan, 1995, 2ⁿᵈ ed); Adam Watson: *The Evolution of International Society* (London: Routledge, 1992); and, Adam Watson: *The Limits of Independence: Relations Between States in the Modern World* (New York: Routledge, 1997). The English School is still a very vital paradigm, which is continuously developed. See e.g. English School website: http://www.leeds.ac.uk/ polis/englishschool. For more modern contributions to this theoretical tradition, see e.g. Barry Buzan: *From International Society to World Society? English School and the Social Structure of Globalisation* (Cambridge: Cambridge University Press, 2004); and, Barry Buzan: *The United States and the Great Powers: World Politics in the Twenty-First Century* (Cambridge: Polity Press, 2004).

[53] See e.g. Emmerich Vattel: *Droit des gens; ou, Principes de la loi naturelle appliqués à la conduite et aux affaires des nations et des souverains* (1758; tr. *Law of Nations*, 1760). The book is available in an English translation on the net, see: http://www.constitution.org/vattel/vattel.htm; and, Hugo Grotius: *De Jure Belli ac Pacis Libri [The Laws of War and Peace]*. Translated by Francis W. Kelsey (New York: Oceania, 1964).

[54] Hedley Bull and Adam Watson: *The Expansion of International Society*, p. 1.

behaviour that maintains the fundamental values in the international society. The Westphalian order is, as we know, in its "mature" form best described as an "anarchical society".[55]

Then, what about the abstract concept "world order", can it be used in scientific analyses or is not more than a (political) slogan? It is perfectly clear that the concept has been used in very different contexts. It was for example in fashion in the debate about a new international economical order in the mid-1970s. It was also used in connection to the first Gulf War in 1990, when president Bush (the older) coined the expression "a new world order". Even if the meaning of the concept was very different these two times it is still plausible to state that it in both cases it had to do with later gravelled hopes. In the former case a more just world, and in the latter case a more peaceful, or at least more secure, world. One possible conclusion to draw is that it is necessary to separate between actual, desirable and possible world orders. Hence, the concept has one empirical side, but also a normative as well as a constructive side.[56] If we are interested in the concept as something possible to use in scientific analysis, how can it then be defined? One possible way is to start from a commendable attempt made by professor Björn Hettne. He defines "world order" by using three dimensions, namely: "structure", "form for decision-making", and "legitimacy". Changes in these dimensions, he argues, can mean a transformation of the world order.[57]

The structure can be unipolar, bipolar or multipolar. After the end of WW II an earlier multipolar international political system was changed to a bipolar order. After the collapse of the USSR tendencies towards a multipolar structure was once again possible to identify. However, the U.S. seems to have entered a more unilateral strategy lately, with the ultimate aim of creating a unipolar world order, a *Pax Americana*, or even an *American Empire*.[58]

The decision-making form, which should be distinguished, from the structure, can be unilateral, bilateral, plurilateral (with regional as a special case), and multilateral. By this dimension is understood the forms for decision-making and governance of the world order. The UN is commonly assumed to be a multilateral form of decision-making. However, in practice it is plurilateral, since the system is controlled by the five powers that where considered winners of WW II.[59] With a plurilateral form of decision-making is understood a form where several but not all agents are represented. A version of this form is the regional one, where membership in the decision-making bodies is dependent on geography, i.e. membership is limited in space. A multilateral form is a political form in which all potential agents are included, or at least could be included if they accept the rules connected to membership. With a unilateral form is meant a decision-making form in which one agent is acting on-sided; and, a bilateral order is an order containing of two parties.[60]

Legitimacy, at last, can vary from strict international law legality to anarchy, i.e. an order in which national interest rules completely. Alternatives in between the two endpoints are more or less legitimate or morally justifiable, multilateral, plurilateral or regional interventions on e.g. humanitarian grounds, or actions of (pre-emptive) self-defence.[61]

The question about legitimacy is closely connected to another fundamental concept, namely "hegemony". This latter concept has to do with what it is making an order ordered. A well

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[55] Hedley Bull: *The Anarchical Society: A Study of Order in World Politics.*

[56] Cf. Björn Hettne: *Från Pax Romana till Pax Americana: Europa och världsordningen [From Pax Romana to Pax Americana: Europe and the World Order]*, p. 17.

[57] Ibid.

[58] Op.cit., pp. 17f. Polarity is, according to Barry Buzan, the simplest and most traditional way to characterise the global power structure. See his: *The United States and the Great powers: World Politics in the Twenty-First Century*, Ch. 3.

[59] See the UN Charter, especially Ch. V as well as art. 39, 41, and 42.

[60] Björn Hettne: *Från Pax Romana till Pax Americana: Europa och världsordningen [From Pax Romana to Pax Americana: Europe and the World Order]*, p. 18.

[61] Ibid.

functioning system requires an underlying social order. Simply put, a set of rules followed by the agents included in the system. It is this compliance that constitutes the foundation for the social order.[62] Hegemony is a multidimensional and subtle form of power to maintain the system that includes the acceptance of the dominated as an element in the exercise of power. Hence, hegemonic power is legitimate unlike pure dominance (i.e. empire), which is founded on an immediate threat of the use of violence. It has been argued that an ordered world order requires a hegemonic power that stands as a guarantor for the system of rules. This idea is known as the "thesis about hegemonic stability".[63]

To conclude, the concept world order contains structural as well as ideational (like e.g. ideas, values and ideologies) relations, but also different material interests, political relations, military capability, discursive control (i.e. control over what can be discussed and what cannot; a sort of privilege to set the agenda) as well as other relations (of power).[64] A world order changes slowly under the influence of different political and economical actions (like e.g. the deregulation of financial markets), international agreements (such as the United Nations Environment Programme, UNEP, 1972), and counter discourses (for example the currently growing anti-globalisation movement, represented by e.g. Attac) as well as other social activities.[65] The concept world order summarises the formal and informal system of rules that gives a certain conformity of law and predictability to international and transnational interactions taking place without the political framework and the unambiguous authority that so far has characterised the sovereign nation state in the Westphalian order. This system of rules includes traditional public international law, most authoritatively and clearly expressed in the UN Charter (1945), as well as different commercial rules, arranged under the umbrella of the World Trade Organization (WTO). Besides these bodies of rules other, more or less formalised, bodies or regimes exist or is gradually emerging. A good example of such a growing set of rules is the so-called new *lex mercatoria* that has been developed over the last decades.[66] Another interesting example is the recent development of the so-called "global compact".

This governance, which lately has been collected under the label "global governance", is based on several agents that are active on different levels in society.[67] It can be understood as a "regime of regimes", i.e. something less fanciful than a world government, but an evolving complex — embracing states, international institutions, transnational networks and agencies

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[62] See Mikael Baaz: *A Meta-theoretical Foundation for the Study of International Relations in a Global Era: A Social Constructivist Approach*, Ch. 4.

[63] Björn Hettne: *Från Pax Romana till Pax Americana: Europa och världsordningen [From Pax Romana to Pax Americana: Europe and the World Order]*, p. 19. Regarding the discussion about hegemonic stability, see also e.g.: Charles Kindleberger: *The World in Depression, 1929-1939* (Berkeley: University of California Press, 1973); and, Robert Gilpin: *The Political Economy of International Relations* (Princeton: Princeton University Press, 1987).

[64] Mikael Baaz: *A Meta-theoretical Foundation for the Study of International Relations in a Global Era: A Social Constructivist Approach*, Ch. 4, especially figure 4.4; and, Björn Hettne: *Från Pax Romana till Pax Americana: Europa och världsordningen [From Pax Romana to Pax Americana: Europe and the World Order]*, p. 19.

[64] Ibid.

[65] See e.g. Mikael Nyberg: *kapitalet.se. Myten om det postindustriella paradiset [The capital.se: The Myth about the Post-industrial Paradise]* (Stockholm: Ordfront, 2002); and Hans Abrahamsson: *Det gyllene tillfället: Teori och strategi för global rättvisa [The Golden Opportunity: Theory and Practice for Global Justice]* (Stockholm: Leopard förlag, 2003).

[66] See e.g. Mikael Baaz: "International 'Harmonisation' of Recognition and Enforcement of Judgments and Awards: A Comparison Between the Brussels Regulation (EC 44/2001) and The New York Convention (1958)" (Göteborg: School of Business Administration and Commercial Law, Department of Law, 2001).

[67] See e.g. David Held and Anthony McGrew: *Governing Globalization: Power, Authority and Global Governance* (Cambridge: Polity Press, 2002); Paul Kennedy, Dirk Messner and Franz Nuscheler (eds.): *Global Trends and Global Governance* (London: Pluto Press, 2002); Volker Rittberger (ed.): *Global Governance and the United Nations System* (Tokyo: The United Nations University Press, 2001); Paul F. Diehl (ed.): *The Politics of Global Governance: International Organizations in an Interdependent World* (Boulder: Lynne Rienner Publishers, 2001); and, Mark Duffield: *Global Governance and the New Wars* (London: Zed Books, 2001).

(public as well as private — which functions, with variable effect, to promote, regulate or intervene in the common affairs of humanity). Global governance is multilayered, enmeshed on several levels (the suprastate, the regional, the transnational, and the substate level). Sandwiched between these different layers is the national government. It is also polyarchic (since there is no single locus of authority), structurally complex (composed of diverse agencies and networks with overlapping jurisdictions, et cetera), and has a variable geometry (i.e. the political significance and regulatory capacity vary around the globe from issue to issue).[68] At the core of this patchwork, however, we find the sovereign states and the UN.

Besides hegemony, other political orders, such as "balance-of-power", "dominance" and a normative structure governed by ideas and values, are possible. An example of the last type of order is "cosmopolitanism".[69] As argued frequently above, we currently live in a transformative period, in which one order most likely is leaving place for another one. We do not know by certainty what the future holds. Let us for now only state that orders can change over time and that the future holds different alternative orders.

If the concept world order is operationalised as suggested above we have an analytical instrument that can be used to understand earlier world orders as well as the current one. In addition, suggestions regarding the future world order, in accordance with the meta-model discussed earlier, including empirical, normative, and constructive theory, can be given.

The study of as well as the view of using violence takes place in a context, within a world order. We know that world orders change over time, and so does the legitimacy/legality of using violence as an international political means. Until 1928, with the signing of the Kellog-Briand Pact, the use of violence was considered a legal means in world politics. After 1928 it was not. This position is currently challenged and we are running the risk of returning to a pre-1928 situation, i.e. a world order in which the use of violence, once again, is considered a legal/legitimate means in the conduct of international relations.

Violence

Before leaving this subsection one more concept needs to be discussed briefly, namely "violence". The concept of violence is elusive and can mean a lot of things. One possible way to understand the concept is as Johan Galtung did in 1969. He wrote: "*violence is present when human beings are being influenced so that their actual somatic and mental realizations are below their potential realizations*".[70] A few years later Galtung gave a supplement to his earlier definition by separating between *direct* and *structural* violence.[71] By the latter category is understood almost all

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[68] See Mikael Baaz: *A Meta-theoretical Foundation for the Study of International Relations in a Global Era: A Social Constructivist Approach*, Ch. 4; David Held and Anthony McGrew: "Introduction", in David Held and Anthony McGrew (eds.): Governing Globalization: Power, Authority and Global Governance (Polity Press: Cambridge, 2003), pp. 1ff; and, Peter Willets: "Transnational Actors and International Organizations", in John Baylis and Steve Smith (eds.): *The Globalization of World Politics: An introduction to International Relations* (Oxford: Oxford University Press, 2001), pp. 356ff, especially fig. 17.5, p. 379.

[69] The word "cosmopolitan", deriving: "from the Greek word *kosmopolitês* ('citizen of the world'), has been used to describe a wide variety of important views in moral and socio-political philosophy. The nebulous core shared by all cosmopolitan views is the idea that all human beings, regardless of their political affiliation, do (or at least can) belong to a single community, and that this community should be cultivated. Different versions of cosmopolitanism envision this community in different ways, some focusing on political institutions, others on moral norms or relationships, and still others focusing on shared markets or forms of cultural expression. The philosophical interest in cosmopolitanism lies in its challenge to commonly recognized attachments to fellow-citizens, the local state, parochially shared cultures, and the like". *Stanford Encyclopaedia of Philosophy*. The article is available on: http://plato.stanford.edu/entries/cosmopolitanism /#1. The site was visited 2005-03-20.

[70] Johan Galtung: "Violence, Peace, and Peace Research", *Journal of Peace Research* (1969), vol. 6, p. 168.

[71] See e.g. Johan Galtung: "A Structural Theory of Imperialism", *Journal of Peace Research* (1971), vol. 8, pp. 81-117.

kinds of social injustice. The definitions made by Galtung was done in reaction towards what he believed to be a to narrow focus of Peace and Conflict Studies, an emerging academic topic at that time, focusing on direct violence and wars between states. The problems with Galtung's definitions, however, are the contrary to the ones he criticises; they are too wide. If his definition is taken literally all effects leading to a difference between actual and potential physical and mental status then per definition must be considered as violence. The point of departure for understanding violence in this essay will be more traditional, or in Galtung's word, narrow.[72]

Violence emanates from the Latin word *violenta*, and means a wild and intense development of power; the verb-form is *violare*, and means transcend, go to far, or violate. However, this is not precise enough, since it is not possible to decide if a certain power or transcending shall be considered as violence only with reference to the etymological meaning of the word. Instead the focus must be on the effect rather than the type of behaviour when deciding if something shall be regarded as violence or not. This discussion does not lead to a very precise definition of the concept. It might, however, become a bit clearer if another concept is introduced, namely "intervention". R. J. Vincent has defined intervention as follows. Intervention is an,

> [a]ctivity undertaken by a state, a group within a state, a group of states or an international organization which interferes coercively in the domestic affairs of another state. It is a discrete event having a beginning and an end, and it is aimed at the authority structure of the target state. It is not necessarily lawful or unlawful, but it does break conventional pattern of international relations.[73]

Hence, when I speak about *violence* in this essay I have in mind a coercive military breach of the walls of the castle of sovereignty enshrined in customary international law and codified in art. 2(7), the UN Charter, with military means, i.e. military interventions (including wars, in its formal sense, but also measures short of war).[74]

Other for the essay necessary definitions will be given gradually in the text. By these clarifications done, let me now turn to a brief discussion about the methods applied, the material chosen, and the outline of the rest of this essay.

Methods, Material and Disposition of the rest of the Essay

Fundamentally this essay deals with the connections between, on the one hand, international law, and, on the other hand, the international, or global, environment in which this law is expressed but also contributes to shape, i.e. international relations. Therefore, the overall approach in the essay is both traditionally legal dogmatic, social scientific and historical. The essay is interpretative, systematic, inter-disciplinary and contextual.[75]

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[72] For two interesting contributions regarding the concept of "violence", see Catherine Besteman (ed.): *Violence a Reader* (New York: New York University Press, 2002) and Nancy Scheper-Hughes and Philippe Bourgois (eds.): *Violence in War and Peace: An Anthology.* (Oxford: Blackwell, 2004).

[73] R. J. Vincent : *Nonintervention and International Order* (Princeton: Princeton University Press, 1974), p. 13.

[74] Cf. Nicholas J. Wheeler and Alex J. Bellamy: "Humanitarian Intervention and World Politics", in John Baylis and Steve Smith (eds.): *The Globalization of World Politics: An Introduction to International Relations* (Oxford: Oxford University Press, 2001), p. 472.

[75] Håkan Hydén: *Rättssociologi som rättsvetenskap [Sociology of Law as Legal Science]* (Lund: Department of Sociology. Lund Studies in Sociology of Law, 1998), pp. 9 ff); Mikael Baaz: "Statssuveränitet och humanitär intervention: Oförenliga principer i dagens globaliserade värld [State Sovereignty and Humanitarian Intervention: Incompatible Principles in today's Globalised World]"; and, Mikael Baaz: *A Meta-theoretical Foundation for the Study of International Relations in a Global Era: A Social Constructivist Approach.*

A Few Words about "Methods"

The traditional legal dogmatic approach takes its points of departure from an interpretation and systematisation of material that is by tradition acknowledged as legal sources, i.e. legislation expressed in custom, conventions, and from that attendant legislation, case law, and doctrine.[76] Such an approach is included in this work. But, the international legal framework, including the UN-system and how this shall be interpreted, as well as the actions of individual states and other agents is the result of long-term political, economical, social, and cultural courses of events. Accordingly, a complementary, sociology of law, approach is required.[77] If such an approach is excluded, the changing view of violence as an international-political means cannot be studied. The approach in the essay is dynamic, i.e. it sets out to study a phenomenon over time. Therefore a method able to deal with change is needed.

States as well as other agents are considered to be heterogeneous agents and domestic as well as international processes of decisions are taken into consideration. In order to understand the current situation deeper, both from the perspective of agents and structure(s), and to develop the processes of thinking into the future, a consciousness about historical course of events are required.[78] Simply put: the investigated international legal system and the agents participating in this system, their actions and mutual relations, must be located in their proper historical context. Otherwise the understanding will be incomplete, not to say incorrect.[79]

With historical knowledge as a background, a relief, identified trends can be projected on the "screen of the future"; hereby it becomes possible to consider the possibility as well as the desirability of these trends, or "scenarios".[80] Given the "constructive" ambition of this essay — I do not only want to say something about how thing are and how they ought to be, but also something about how this can be achieved — such an approach is also taken into consideration. The approach applied in this project can be described as a *legal historical sociological* one.

Methodologically speaking the findings presented relies upon conceptual analysis, critical review of the literatures and histories of key concepts. It also includes some sort of "scenario technique". However, the essay is not a product of any refined methodological technique, systematically applied. It is an attempt to deal with a large and complex subject by reading about it, thinking it through and presenting an orderly picture of my findings. But, as stated by Samuel Alexander, "thinking is also research".[81] A statement worth stressing these days characterised by abundance of information but scantiness of reflected knowledge.

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[76] Per Cramér: *Neutralitet och europeisk integration [Neutrality and European Integration]* (Stockholm: Nordstedts Juridik, 1998), p. 23; and, Håkan Hydén: *Rättssociologi som rättsvetenskap [Sociology of Law as Legal Science]*, pp. 24f

[77] Håkan Hydén: *Rättssociologi som rättsvetenskap [Sociology of Law as Legal Science]*, p. 27.

[78] See Mikael Baaz: "Some Ontological Remarks on the Study of Global Social Relations from the Perspective of International Political Economy of Development", in Michael Schulz (ed.): *Peace and Development: Their Interrelationship in the Global System: An inventory of Peace and Development Research at Padrigu* (Göteborg: Padrigu Papers, 1999); Mikael Baaz: *A Meta-theoretical Foundation for the Study of International Relations in a Global Era. A Social Constructivist Approach*; and, Mikael Baaz: "Ontological Proposals for the Study of Global Social relations from the Perspective of International Political Economy of Development".

[79] Per Cramér: *Neutralitet och europeisk integration [Neutrality and European Integration]*, pp. 23f; and Mikael Baaz: *A Meta-theoretical Foundation for the Study of International Relations in a Global Era. A Social Constructivist Approach*, Ch. 2.

[80] George Henrik von Wright: *Att förstå sin samtid: Tanke och förkunnelse och andra försök [To Understand the Age in which we Live: Thought and Preaching and other Attempts]* (Stockholm: Bonniers förlag, 1994), pp. 315ff.

[81] Samuel Alexander: *Space, Time and Deity* (London: MacMillan, 1920), quoted in Hedley Bull: *The Anarchical Society: A Study of Order in World Politics*, p. xiii. See also Barry Buzan: *From International Society to World Society? English School and the Social Structure of Globalisation*; and, Barry Buzan: *The United States and the Great Powers: World Politics in the Twenty-First Century*.

Material

As material for the essay I will use customary as well as codified international law (especially, but not only, the UN Charter and other UN documents, such as resolutions from the SC and the GA), national political decisions and statements, in its widest sense, as well as comments to and analyses of such materials. This includes the use of both primary and secondary sources, not only works produced by academics, but also material that is more popular in its character, like e.g. articles published in the daily press. Due to the character of the topic dealt with such material needs to be included. The essay discusses processes that are ongoing, and not completed, sometimes not at all analysed.

Hereby, only one thing remains to be done in this introductory chapter, namely to sketch the outline of the rest of the essay.

Disposition of the Rest of the Essay

The disposition of the rest of this essay is a follows. After this introduction, follows a chapter in which the historical origin of the modern international society is presented. In this chapter is also some key concepts discussed (further). Thereafter, in chapter three, the world of the emerging West is discussed. In chapter four, the world of Western dominance is discussed. In chapter five, the period of the Great Wars (1914-1945) are analysed. In chapter six is discussed how the international society became global and in the following chapter, the seventh in order, I discuss the end of the Cold War and the Idealism of the 1990s. After these chapters the focus changes. In chapter eight a number of alternative future world orders are discussed. The consequences of 9/11 are discussed in chapter nine. In chapter ten, the last chapter of the essay, I discuss the future world order, in the wake of what have been put forward in the nine previous chapters. In all chapters, the prevailing view on violence as a legal/legitimate means in the conduct of international relations is in focus.

The Historical Origins of the Modern International Society

In order to understand the contemporary world order and the significance of globalisation in general as well as the changing view of violence as an acceptable political means in particular, it is necessary to consider the evolution of international relations, especially the evolution of the modern international society. In this chapter and the five chapters that follow I will trace the origins and try to describe the development of our modern international society until the end of the Cold War in 1989.

In tracing the origins and historical evolution of modern international society it is useful to divide it into various stages. Periodizations are, needless to say, always arbitrary; nevertheless, they may prove helpful for a better understanding of some major turning points. In what follows, special focus is paid trying to explain transformations, from one world order to another. A fundamental societal change normally does not happen at a special occasion, and the agents at a given historical time are seldom conscious about the long-term implications of their actions. A societal change happens slowly, but it becomes more manifest and apprehensible for our own time if certain individual occurrences are tied together into a pattern, where the individual occurrence is one among several other pieces (in a giant historical jigsaw puzzle). History of individual occurrences is important, but they must be contextualised.

In this chapter and the following five, the markers, structure, decision-making, and legitimacy, (described as dimensions of the concept world order earlier) will be used as organisers — as components constituting a theoretical frame for the chronology presented.

The present chapter discusses, after some further initial conceptual clarifications, in order, the Ancient Greek or Hellenic international society, the Roman Empire and *respublica Christiana*, the Renaissance Italian international society, and the early modern European international society (between 1500 and 1648).

Origins and Some Further Definitions

When international relations originated is something that is only possible to speculate about. But, theoretically and conceptually speaking it was when people began to settle down on the land, developing agriculture, form them into separate territory-based political communities, and eventually faced the inescapable problem of co-existing with neighbouring groups. When contact occurred it most likely involved non-belligerent activities such as dialogue, collaboration, exchange, communication, recognition, on the one hand, but also competition, disputes, threats, intimidation, intervention, invasion, on the other.[82]

The social reality of group relations on a horizontal level, the division between "we" and "them" and ultimately the existence of borders, could, figuratively speaking, be considered as the core problems of international relations. If there existed no horizontal divisions there could still be human societies, such as isolated political communities and roaming and marauding groups or a vertical society, like e.g. an "empire" or even a cosmopolitan world society. But there could not be international relations in the ordinary meaning of the concept.[83] To be brief,

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[82] Robert H. Jackson: "The Evolution of International Society", in John Baylis and Steve Smith (eds.): *The Globalization of World Politics: An Introduction to International Relations* (Oxford: Oxford University Press, 2001), pp. 35f.

[83] When I a speak about the concept "empire", I have in mind a grand political entity, in which the rulers does not only rule over its own people, but also other oppressed peoples. The term originally refers to the authorities that the highest roman officials had. It was later developed to include also the territory over which the authority was exercised. *Bonniers Stora Lexikon [Bonniers Great Encyclopaedia]* (Stockholm: Bonniers Förlag,

international relations as understood historically and conventionally are relations of territorially based and delimited groups.[84]

Taking the above discussion into consideration the earlier given definition of "international society" becomes even more substantial. An international society is a society of political communities that are not under any higher political authority. In the language of international relations such separate and "sovereign" communities are known as "states" which are conceptualised as consisting of a permanent population, a defined territory, and a (central) government that has the capacity to enter into relations with other states.[85] Hedley Bull writes:

> The starting point of international relations is the existence of states, or independent political communities, each of which possess a government and asserts sovereignty in relation to a particular portion of the earth's surface and particular segment of the human population.[86]

International society, however, is basically a "Liberal" political arrangement.[87] Independence, the political opportunity of people to enjoy a geographically separate group existence free from unsolicited interference from neighbouring groups and other outsiders, is the most important core value in this political arrangement. Independence is the core value in a cluster of important international values, such as self-determination, non-intervention, the right to self-defence, and the like. The most important political and legal arrangement to uphold these values is *state sovereignty*. States can exist side by side through different arrangements, such as diplomacy (including balance-of-power), one of the most noteworthy arrangements among societies, international law, but also other arrangements, such as recognition, reciprocity, international conferences, international organisations, and much else.[88]

It is important to note that vertical or hierarchical relations between political groupings are commonplace throughout the world as far back as recorded history can take us. The prevalent

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1986), vol. 6, p. 94. For a further elaboration of the concept, see *intra*. When I speak about "suzerainty" I refer to: "a situation in which a region or people is a tributary to a more powerful entity which allows the tributary some limited domestic autonomy but controls its foreign affairs. The term was originally used to describe the relationship between the Ottoman Empire and its surrounding regions. It differs from sovereignty in that the tributary has some limited self-rule. Although it is a concept that has existed in a number of historical empires, it is a concept that is very difficult to describe using 20th or 21st century theories of international law, in which sovereignty either exists or does not. While a sovereign nation can agree by treaty to become a protectorate of a stronger power, modern international law does not recognize any way of making this relationship theoretically irrevocable by the weaker power". See: http://encyclopedia.laborlaw talk.com/suzerain. The site was visited 2005-03-21.

[84] Op.cit. p. 36.

[85] See e.g. the Convention on Right and Duties of States (1933), Art. 1. For a more extensive discussion, see e.g. Peter Malanczuk: *Akehurst's Modern Introduction to International Law*, pp. 75ff.

[86] Hedley Bull: *The Anarchical Society: A Study of Order in World Politics*, p. 8.

[87] Liberalism, besides being an ideology, is one of three main theoretical perspectives in the academic study of International Relations (IR), the other two are Realism and Marxism. Although Realism is regarded as the dominant perspective, Liberalism has a strong claim to being the historical alternative. Liberalism occurs in many different versions, like e.g. Liberal internationalism, Idealism, and Liberal institutionalism. Among the core values of Liberalism are the liberty of the individual (state), collective security, conditionality, cosmopolitanism, democratic peace, enlightenment, integration, interdependence, international society, normativity, pluralism, and world government. Tim Dunne: "Liberalism", in John Baylis and Steve Smith (eds.): *The Globalization of World Politics: An Introduction to International Relations* (Oxford: Oxford University Press, 2001), pp. 162ff. See also Mikael Baaz: A *Meta-theoretical Foundation for the Study of International Relations in a Global Era. A Social Constructivist Approach*, passim.

[88] Robert H. Jackson: "The Evolution of International Society", p. 37.

form of group relations has been the political "empire" or "suzerainty". Horizontal relations, like international societies, have, in comparison, been relatively rare.[89]

The City-states of Hellas

In ancient Greece, there existed a society of states that shared a similar language and culture. The political groups, known as city-states, had regular contact with one another — peaceful intercourse as well as acts of war. This international society, which, according to Robert H. Jackson, is the first historical manifestation of an international society, survived for approximately four hundred years in a surrounding environment of various empires, including, in chronological order, Persia, Macedonia, and the Roman Empire. Looking beyond Europe and the Middle East, there also existed great empires in e.g. East Asia. The most obvious example is the Chinese empire, which lasted, in different incarnations, for millennia.[90]

The ancient Greek, or Hellenic, international society comprised a large number of city-states geographically located on the lower Balkan Peninsula and the islands in the surrounding Aegean, Adriatic, and Mediterranean seas.[91] Among all these famous Hellenic city-states Athens and Sparta were the most famous. Thus, ancient Greece was not a state, but the Greeks shared a common language and culture. They referred to themselves as Hellenes and distinguished themselves from surrounding neighbours, whom they referred to as "barbarians", i.e. those who did not speak Greek. There were extensive relations between the city-states of Hellas. Words like reconciliation, truce, convention, alliance, arbitration, treaty, and peace were evolved during the Hellenic era. The Oracle of Delphi was, among other things, used as a source to solve disputes between the city-states. Diplomacy as we know it did, however, not existed. But the Hellenes developed a comparable institution, known as *proxeny*, which served the same fundamental functions as diplomacy later did.[92]

The international society that existed on the southern Balkan Peninsula was cultural-religious rather than legal-political. This does not, however, mean that the city-states did not recognised certain principles, divine as well as man-made, regulating their mutual relations. Thus, treaties were considered to be under special custody of *Zeus* (the chief God in Greek mythology), and it was considered an (divine) offence to break a treaty without a recognised justification. It was also considered as an offence to abandon an ally during a military campaign. To be brief, narrow expediency and strict opportunism in foreign policy as well as in war were considered wrong. Sparta, for example, was criticised for their "diplomatic" unreliability by neighbouring states.[93]

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[89] Ibid; and, Björn Hettne: *Från Pax Romana till Pax Americana: Europa och världsordningen [From Pax Romana to Pax Americana: Europe and the World Order]*, pp. 29f. See also John P. McKay, et.al.: *A History of World Societies* (Boston: Houghton Mifflin Company, 2000; and, Adam Watson: *The Evolution of International Society* (London: Routledge, 1992).

[90] Robert H. Jackson: "The Evolution of International Society", pp. 37f; John P. McKay, et.al.: *A History of World Societies*, Ch. 5, 6, 7, 9, 10, and, 11; and, Adam Watson: *The Evolution of International Society*, Ch. 4-12. For a short, very readable and comprehensive, overview of the Roman Empire, see Tore Janson: *Latin: kulturen, historien, språket [Latin: The Culture, History, Language]* (Stockholm: Wahlström and Widstrand, 2004). More about the development in China can be found in: *China Tradition and Transformation*, written by John K. Fairbank and Edwin O. Reischauer in 1984. The book is published by Allen and Unwin, London.

[91] Sten Högnäs: *Idéernas historia [The History of Ideas]* (Lund: Historiska Media, 2003), p. 14.

[92] Robert H. Jackson: "The Evolution of International Society", pp. 38f; John P. McKay, et.al.: *A History of World Societies*, Ch. 5; and, Adam Watson: *The Evolution of International Society*, Ch. 5.

[93] Robert H. Jackson: "The Evolution of International Society", p. 39.

If one tries to sum to sum up the Hellenic world order, the following can be concluded. The structure of the Greek regional international society was multipolar (or maybe more correct, bipolar, with Sparta and Athens as great powers), while the form for decision-making was more or less unilateral. Regarding legitimacy, certain rules existed. But the Greeks did not operate with a concept of equal sovereignty. Some city-states, such as Athens and Sparta were clearly more equal than others. Minor states were treated as less worth. This state-of-the-art is made painfully clear in Thucydides account of the Peloponnesian war, which took place 431-404 BC, between Athens and Sparta. In a famous dialogue, the people of Melos (which was a small city-state) appeal for justice from the powerful Athenians, who have presented them with an ultimatum. The response of the Athenians, however, clearly indicates that power matters. Thucydides writes: "the standard of justice depends on the equality of power to compel and that in fact the strong do what they have the power to do and the weak accept what they have to accept".[94]

The ancient Greeks, Martin Wight argues, did not articulate a body of international law as we know it today. They could not, since they could not imagine the city-state (*polis*) as having rights and obligations to other city-states on some basis of rough equality.[95] Narrow expediency and strict opportunism, however, in both war and foreign policy were considered wrong. Hence, it was considered immoral to engage in a surprise military attack. Atrocities were associated with the conduct expected of barbarians, but not Greeks. So rules, in some form, existed. The Greeks, in fact, also recognised, however dimly, the existence of certain standards of conduct, which applied not only between themselves, but also to all mankind, civilised and barbarians alike.[96] Hellas was eventually overwhelmed by imperial Macedonia approximately 100 BC. Later Macedonia was incorporated in the Roman Empire.

The Roman Empire and *Respublica Christiana*

Throughout the era of the "Roman Empire" and its successor, *respublica Christiana*, which lasted until the end of the fifteenth century, *empire* was the prevalent mode of large-scale political groups in Europe, as well as in the rest of the world.[97] The Roman Empire came into existence in Italy; according to the legend Romulus established it 753 BC. Initially there existed an intricate internal political order aimed at avoiding dictatorship. However, this order was not possible to maintain due to the challenges that the empire faced. As a consequence, Julius Caesar proclaimed himself dictator in 45 BC and developed the imperial power. But, he was murdered only one year later. His adopted son Augustus continued, after defeating his opponents in recurring intrigues that lasted for a decade and a half and a civil war, the work of his father and manifested the imperial order.[98] After having put an end to the civil war

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[94] Thucydides: *The Peloponnesian War* (translated by Rex Warner. London Penguin Classics, 1954), p. 360. This statement condenses the political ethics of Realism, in the Western tradition. Cf. the discussion about Liberalism above.

[95] Martin Wight: *System of States* (Leicester: Leicester University Press, 1977), p. 51.

[96] Harold Nicolson: *The Evolution of Diplomatic Method* (London: Constable, 1954), p. 10.

[97] If Europe should be considered as continent of its own right or not is uncertain. Looking at a world map it is clear that no natural border separating Europe from Asia exists. Europe is more of a historical and cultural definition than a geographical one. The first to use the concept is the Greeks. They do a trisecting of the word; the third continent is Africa. Interesting to note is that the Hellenic culture was developed in the intersection of the continents, Europe, Asia, and Africa. Sten Högnäs: *Idéernas historia [The History of Ideas]*, p. 14.

[98] The word imperator means commander and is connected to the verb *imperare*, which means to command, and *impérium*, meaning the command. Gaius Julius Caesar Octavianus Augustus, known as Augustus, was the first emperor that permanently was commander-in-chief, *summum imperium*, and thereby always imperator. His empire was called *imperium*, often with the addition *romanum*. Hence, *imperium romanum* means the Roman

Augustus faced monumental problems of reconstruction. He chose not to proclaim himself as a dictator but to restore the (old Roman) republic. Under his rule the Roman Empire continued to expand. It reached its height at around AD 200. During the fourth century, more precisely in 380, Christianity was made the official religion in the Roman Empire by Emperor Theodosius. At the end of the same decade, in 395, an administrative division of the empire was made. Constantinople, located on the site of Byzantium (an old Greek city on the Bosporus) was made capitol in the Eastern part of the empire, while, the more difficulty defended, Rome continued to be capitol in the western part of the empire. Western Rome was subject for continuous marauding by strolling Teutons and continuously weakened. The last emperor of Western Rome deposed in 476, while Byzantine (i.e. Eastern Rome) lasted for almost another millennium (until 1453).[99]

Although the Romans recognised a basic law of nations, known as *jus gentium*, it was not an express law for independent, equal, and sovereign states. Rome was the only sovereign and its relations with all other existing political entities included in its domain, the empire, were imperial and not international. Robert H. Jackson writes: "instead of dialogue and conciliation between independent states, under the Roman imperium there was only the alternative of obedience or revolt".[100] This hard, but relatively stable political order is known as *Pax Romana*.[101]

After the imperial breakdown in West and the removal of the imperial capital and the emperor to Constantinople, the bishop of Rome exercised considerable influence in the West. Successive bishops in Rome stressed the special role of that see. Peter, the, according to tradition, chief of Christ's first twelve disciples had lived and been executed in Rome. He is also buried in Rome, together with Paul, one of the other evangelists. The bishops of Rome, known as popes (from the Latin *papa*, meaning father) claimed to be successors of Peter and heirs to his authority based on the words of Jesus: "You are Peter, and on this rock I will build my church … Whatever you declare bound on earth shall be bound in heaven".[102] In the fifth century, the bishops of Rome began to stress supremacy over other Christian communities than their own and to urge other churches to appeal to Rome for resolution of doctrinal issues.

Empire. Tore Janson: *Latin: kulturen, historien, språket [Latin: The culture, history, language]*, p. 47. See also John P. McKay, et.al.: *A History of World Societies*, pp. 147ff; and, Björn Hettne: *Från Pax Romana till Pax Americana: Europa och världsordningen [From Pax Romana to Pax Americana: Europe and the World Order]*, p. 35.

[99] John P. McKay, et.al.: *A History of World Societies*, pp. 157ff, note especially map 6.4 on p. 170; and Adam Watson: *The Evolution of International Society*, Ch. 9 and 10. See also Björn Hettne: *Från Pax Romana till Pax Americana: Europa och världsordningen [From Pax Romana to Pax Americana: Europe and the World Order]*, pp. 35f.

[100] Robert H. Jackson: "The Evolution of International Society", p. 40.

[101] The Roman Empire was not only a political and military entity but also an intricate economic network through which goods from Armenia and Syria were traded for Western products from as far away as Britain and Spain. John P. McKay, et.al.: *A History of World Societies*, p. 171; and Adam Watson: *The Evolution of International Society*, Ch. 9. *Pax Romana*, Latin for 'the Roman peace', refers to the long period of peace experienced by "states" within the Roman Empire. The term stems from the fact that Roman rule and its legal system pacified regions, which had suffered from the quarrels between rival leaders, sometimes forcefully. During this time Rome still fought a number of wars against neighbouring states and tribes, most notably the Teutons and Parthia. It was an era of relative tranquillity, in which Rome endured neither major civil wars, such as the perpetual bloodshed of the first century BC, nor serious invasions, such as those of the Second Punic War a century prior. The period is generally considered to have lasted from 29 BC, when Augustus Caesar declared an end to the great Roman civil wars of the first century, until AD 180, when emperor Marcus Aurelius died. It was a time in which Roman commerce thrived, unhampered by pirates or marauding enemy troops. The Temple of *Janus* stood in the Roman Forum. The temple had doors on both ends, and inside the temple was a statue of the two-faced *Janus*, the two-faced god of boundaries. The temple doors were closed in times of peace and open in times of war. The *Ara Pacis*, (or "Altar of peace") was erected by Augustus to celebrate the *Pax Romana*. See: http://www.wordiq.com/definition/Pax_Romana. The site was visited 2005-03-21.

[102] See the Gospel according to St. Matthew 16:18-19.

This supremacy claim was gradually accepted by several Christian communities, but not all. The Christian church in Eastern Europe was more reluctant to the papal supremacy and eventually the two churches, the western catholic and the eastern orthodox ones, separated definitively. This happened in 1054. After the separation it is in fact adequate to speak about two different (Christian) religions.[103]

The Middle Ages in Western Europe, lasting more or less from AD 500 to 1500, has been called *respublica Christiana* (the Christian republic) and the Europeans during this time was referred to as *populus Christianus* (the Christian people). *Respublica Christiana* can, at least in theory, be characterised as a universal society based on foremost a religious structure (known as *sacerdotium*) but also (to a certain extent) political authority (known as *regnum*), which gave to the "Europeans" at least minimal unity and cohesion whatever their language and wherever their homeland happened to be. In practice, however, medieval Europe was more of a fragmented feudal structure than anything else. But, as argued, medieval Europe as whole had a customary religious obedience to the church, which was a hierarchy of priests and bishops, headed by the Pope, the bishop of Rome. Hence, Medieval Europe was foremost a religious unity. In fact, it was the church (and the religion) that defined Europe.[104]

After the disruption of the Christian Church in 1054, Europe had become a relatively distinct geopolitical entity. It was, however, in relation to Byzantium and the Arabic Islamic Empire very loosely organised.[105] Esmark and McGuire writes:

> Feudal lords and vassals, ties of kinship and alliances of marriage, relations of neighbourhood and community of cults as well as fragment of remaining royal authority: With this, eleventh century rule was in its essence an instable continuously temporary order, a very complicated structure of individual bonds and moral religious obligations, a patchwork quilt where power did not had any permanent centre or main focus and in reality was subject for continuous "negotiations" — sometimes in the shape of peaceful legislation and marriage, sometimes in shape of bloody struggle.[106]

The Middle Ages was an era of social unrest and (religious) war. War as an institution was, just as everything else in Medieval Europe, regulated by religious decree. The two broad functions of the rules of armed conflict are performed by *jus ad bellum* (literally, the law towards war) and *jus in bello* (literally, the law in war), respectively. *Jus in bello* is applicable in cases of armed conflict whether the conflict is lawful or unlawful under *jus ad bellum*. In what follows I will not, due to the focus of the essay, discuss *jus in bello* any further.

Jus ad bellum — also known as "Just War Theory" — explores when it is morally acceptable to begin or engage in war. It is a theoretical tradition that seeks to control the circumstances in which states or other political entities use force in their international relations.[107] The tradition goes back, at least, to Marcus Tullius Cicero (106 BC to 43 BC). He

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[103] John P. McKay, et.al.: *A History of World Societies*, p. 218f and 232ff. See also Alf Henriksson: *Byzantinsk historia år 326 till år 1453 [Byzantine history from AD 326 to AD 1453]* (Stockholm: Atlantis, 1988), pp. 249ff; and Adam Watson: *The Evolution of International Society*, Ch. 10.

[104] Robert H. Jackson: "The Evolution of International Society", p. 40; and, Björn Hettne: *Från Pax Romana till Pax Americana: Europa och världsordningen [From Pax Romana to Pax Americana: Europe and the World Order]*, pp 40f. For a more detailed contribution regarding this period, see e.g.: John P. McKay, et.al.: *A History of World Societies*, Ch. 8 and 12.

[105] Björn Hettne: *Från Pax Romana till Pax Americana: Europa och världsordningen [From Pax Romana to Pax Americana: Europe and the World Order]*, p.41.

[106] K. Esmark and B. P. McGuire (1999), quoted in Björn Hettne: *Från Pax Romana till Pax Americana: Europa och världsordningen [From Pax Romana to Pax Americana: Europe and the World Order]*, p. 41. My translation.

[107] Justin Morris with Hilaire McCoubrey: "Law, Politics, and the Use of Force", in John Baylis, et. al. (eds.): *Strategy in the Contemporary World: An Introduction to Strategic Studies* (Oxford: Oxford University Press, 2002), p. 52.

was, among other things, an orator, lawyer, politician, and philosopher. Cicero held that the use of force was justifiable only when the war was declared by appropriate governmental authority acting within specific limits. For Cicero, the ability to wage war rested with the "state", and the "state" alone, and could be lawfully waged only after an official demand for satisfaction has been submitted or warning has been given and a formal declaration made.[108]

Christians were for the three centuries after the death of Jesus devoted pacifists. Consequently, they rejected the Just War Doctrine. Christians felt they should follow the teaching and example of Jesus; they believed in loving their enemies even if this meant persecution. However, in the year AD 311 the Roman Emperor Constantine made being a Christian legal for the first time in the history of the empire. As Christianity began to be more favoured there were significant changes developing within the Christian doctrine. Ambrose, Bishop of Milan (probably born in 340 and died in 397) borrowed Cicero's idea of just war and made it part of Christian thinking.[109]

One of Ambrose's students, Augustine of Hippo (354-430) (later known as St. Augustine), developed the idea of just war thinking further. One of the additional rules that he added to the above ones, was that a just war must respect conscientious objectors (read religious professionals). From Augustine onwards, just war thinking became more important than the earlier pacifist teaching of the church. Meanwhile, by the year 416 only Christians could be soldiers in the Roman Empire. To conclude, in St. Augustine's thinking, the purpose, the authority and the conduct limited a war.[110]

The discussion about just wars was, however, only relevant between Christian parties and was not applicable if non-Christian parties were involved. The holy wars, the crusades, which started in 1095, were fought against non-Christians. Hence, *jus ad bellum* was not applicable. In total, eight big crusades were carried out, the last one as late as the fifteenth century.[111] Hence, using violence against equals, read Christians, were restricted to a certain extent during the Middle Ages, while the use of violence against others, i.e. non-Christians were not restricted at all. In fact it was encouraged, considered a holy mission.

To a certain extent imperial power emerged again in Europe, at least as a political project, when Pope Leo III, leading a papacy in need of a profane protection, crowned Charlemagne (or Charles the Great) Holy Roman emperor. This act took place in the year 800, on Christmas Day, and Charlemagne took as his motto: *Renovatio romani imperi* (restore the Roman Empire). The greatest source of inspiration for Charlemagne was, the above discussed, Augustine. Shortly after the death of Charlemagne in 814 his empire was divided between his three sons, and eventually it faded away.[112]

In the year of 962, a German-speaking king, Otto I (936-973), was crowned emperor. This coronation changed the Holy Roman Empire to the "Holy Roman Empire of German Nation". Hereby, the imperial project (the First Reich) henceforth became a German project.[113] It lasted, in different shapes and with fading power, until 1806 — in the end, however, as Voltaire noted, it was *ni saint, ni empire, ni romain.*

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[108] Mark Edward Deforest: "Just War Theory and the Recent U.S. Air Strikes against Iraq" (2005). The article is available on: http://law.gonzaga.edu/borders/documents/deforres.htm. The site was visited 2005-03-21.

[109] The Peace Pledge Union: "Can Any War Be Just?". The article is available on: http://www.ppu.org.uk/learn/infodocs/st_justwar.html. The site was visited 2005-03-22.

[110] Ibid.

[111] Björn Hettne: *Från Pax Romana till Pax Americana: Europa och världsordningen [From Pax Romana to Pax Americana: Europe and the World Order]*, p. 42; and John P. McKay, et.al.: *A History of World Societies*, pp. 347ff.

[112] John P. McKay, et.al.: *A History of World Societies*, pp. 331ff.

[113] Björn Hettne: *Från Pax Romana till Pax Americana: Europa och världsordningen [From Pax Romana to Pax Americana: Europe and the World Order]*, p. 45; and, John P. McKay, et.al.: *A History of World Societies*, pp. 342f.

St. Thomas Aquinas (1225 or 1227 to 1274) made a great impetus to the "Just War Theory". He gives in his *Summa Theologicae*, the so far most systematic exposition of the theory.[114] Aquinas emphasised St. Augustine's statements about war and added a little to them. He followed a similar reasoning breaking up his argument into three necessary conditions for a just war, namely: (i) authorised authority, (ii) just cause, and (iii) rightful intention. In speaking about who authorises war St. Thomas stresses that the sovereign has the responsibility for the common good of those committed to his care. Hence, only he can declare war. Moreover the sovereign has the lawful right of recourse to "the sword" to defend his people against internal strife by punishing those who do evil (justified by St. Paul in verse 4 of chapter 13 in the letter to the Romans). Therefore it is his duty to defend the common good against external enemies by having recourse to arms. A just cause is required to wage war. St. Thomas considers such a cause to be "that those who are attacked, should be attacked because they deserve it on account of some fault". Finally St. Thomas discusses the right intention for waging war. Only two possibilities are presented; either the furthering of some good or an avoidance of some evil. The underpinnings of his arguments and most important contribution to St. Augustine's theory "would appear to consist in his stress on the natural law".[115]

During the late Middle Ages (1300-1500) a number of European kings became more and more influential and beat down the feudal lords and challenged the Catholic Church, including the German Roman Empire. Thereby they became state defenders against internal disorder and external intervention of threat. Differently put, the "state" eventually became the guarantor for political order, internal as well as external. Martin Wight elegantly grasps this transformation. He writes:

> The common man's inner circle of loyalty expanded, his outer circle of loyalty shrank, and the two meet and coincided in a doubly definite circle between, where loyalty before had been vague. Thus the modern state came into existence; a narrower and at the same time a stronger unity of loyalty than medieval Christendom.[116]

Hence, from the end of the fifteenth century it is possible to discern a new political structure in Europe. The imperial power was fragmented, the authority of the Church undermined and political power centralised to "regions", i.e. states. It is a violent period, but the political entities that became unified gained an enormous administratively and political advantage. This development is first observable in England, Spain and Portugal, a bit later also in e.g. Sweden – which is an old state. This new political level, the state, sandwiched between the empire and feudal lords is the element for the future, hierarchical, political order in Europe. At the same time as monarchic formations of states made a part of the old decentralised order they also represented a new political order. They did not accept any overlapping structures of authority, neither on the local, nor on the supranational level. During the late Middle Ages kingdoms were created consecutively.[117] The origins of this development can be found in the Renaissance, which developed on the Italian peninsula.

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[114] Alex Moseley (2005): "Just War Theory", in: *The Internet Encyclopaedia of Philosophy*. The article can be found on: http://www.iep.utm.edu/j/justwar.htm. The site was visited 2005-03-22.

[115] The section is based on John Raymond: "The Just War Theory" (2005). The article is available on: http://www.monksofadoration.org/justwar.html. The site was visited 2005-04-03. The latter quote is taken from R. A. McCormick: "Morality of War", in: *The New Catholic Encyclopaedia* (New York: McGraw-Hill, 1967) vol. 14, p. 803. See also Thomas Aquinas: *Summa Theologica,* vol. 3, IIaIIaeQQ. 1-148 Translated by the Fathers of the English Dominican Province (Westminster, Maryland: Christian Classics, 1981[1354]).

[116] Martin Wight: *Power Politics* (London: Penguin, 1986, 2nd ed.), p. 25.

[117] Björn Hettne: *Från Pax Romana till Pax Americana: Europa och världsordningen [From Pax Romana to Pax Americana: Europe and the World Order]*, p. 46; and, L. S. Stavrianos: *The World since 1500: A Global History* (Englewood Cliffs: Prentice Hall, 1995), pp. 354ff.

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The Middle Ages were occupied mostly with the right to wage war and restoring peace through mercy and justice. After St. Thomas other authors on *jus ad bellum* such as St. Ramon of Penafort just elaborated on his position. They mainly concentrated on specifying the proper authority, just causes and intentions of St. Thomas.

The Roman Empire and its direct Christian successor in the West, the medieval *respublica Christiana*, does not qualifies as international societies, but they, besides contributing to the thinking about *jus ad bellum*, served as a historical bridge between the Greek international society and the society of states that started to develop on the Italian peninsula at the end of the twelfth century.

The Italian Renaissance and the Establishment of the *Stato*

Already during the ninth century some cities, especially Venice, showed signs of economic dynamism. This was possible partly due to an excellent geographical location in general and a privileged access to Byzantine markets in particular. The dynamism of Venice spread to other city-states on the Italian peninsula, like e.g. like e.g. Milan, Genoa, and Florence, but also the Papal states. The period extending roughly from 1050 to 1300 witnessed astonishing commercial and financial development and growing political power of self-governing cities in Northern Italy.[118] The development of commerce, led to changes in social conditions, social attitudes, and political power; and, a new kind of people, including merchants, bankers, and artists came into existence. New thinking and freedom from "prejudice" became valuable qualities in the new, "modern", world — the world of emerging capitalism. Simultaneously it became necessary to liberate oneself from the traditional-bound pattern of thought, behaviour, and institutionalisation of the Middle Ages.[119]

These thorough changes are known as the "Renaissance", which literally means *rebirth*. What was reborn was a fascination with the ancient cultures, especially the Hellenic and the Roman ones. Ideals such as individualism, humanism, and secularism were developed. These ideals, in turn, led to drastic changes in e.g. political thought and education. In this intellectual environment the Italians eventually constructed and operated a small regional society.[120]

To be brief, the Renaissance in Italy was an enlightenment in the arts and the sciences started by the recovery of ancient Greek and Roman learning, which had been kept alive (and developed) by Arabic scholars in the Muslim world during the Middle Ages. This enlightenment spread into other areas and had thorough influence on political thinking. In inventing the Renaissance the Italians also invented the modern independent state, the *stato*, of which Venice, Florence, and Milan were the most prominent examples. The states on the Italian peninsula were usually based on a city and its surrounding environments, even though they sometimes extended farther a field, as in the case of the Venetian republic, which occupied extensive territories along the northern and western Adriatic Sea. By instituting their own, freestanding, political systems the "new" Italian men of the *stato* defied and broke free

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[118] John P. McKay, et.al.: *A History of World Societies*, pp. 343 and 443.

[119] Mikael Baaz: *A Meta-theoretical Foundation for the Study of International Relations in a Global Era: A Social Constructivist Approach*, p. 42.

[120] Torbjørn L. Knutsen: *A History of International Relations* (Manchester: Manchester University Press, 1997, 2nd ed.), pp. 36ff; L. S. Stavrianos: *The World since 1500: A Global History*, pp. 333ff; and Adam Watson: *The Evolution of International Society*, Ch. 14.

from existing medieval religious-political authorities.[121] This process is elegantly theorised in the works of Niccoló Machiavelli, especially in his book *The Prince* (written in 1513 and published in 1532).[122] In this book, Machiavelli gives an instrumental foreign policy outlook in which political virtue is educated with astuteness in the development and employment of state power. The ideas expressed in the book form an important part of what has come to be known as the classical theory of Realism. Machiavelli was, Björn Hettne writes, modern; "his ideas would have been unthinkable in a Middle Age context".[123] The Venetian republic, which had a sophisticated constitution, set the standards for other Italian states, later for Spain and France, even later for Europe as a whole, and eventually for the rest of the world.[124]

The idea that the interest of the state and the conduct of statecraft must be guided by an ethics, separated from common morality and religious ethics, was given plenty of rope by the Italians. The interest of the state became reason of the state and the morality of the state was considered to be elevated above common morality and religious ethics. In spite of this early version of "power politics" (or Realism) the Italians instituted among themselves for about a century (1420-1527) a social order, an international society, based on *diplomatic* dialogue. The Italians had a precise insight into the importance of the balance-of-power for maintaining political order between them. However, the agreements made were too often founded on expediency, which was and inadequate ground for the development of a more permanent international society.[125]

This situation also encouraged intervention by non-Italian powers in the "internal" Italian power game. In the end, the *city-states* of Italy were too small, to weak, and to divided to defend themselves against the far larger *territorial-states* that started to rise in Western Europe. Eventually the Italian state were confronted by a new and taken together more dangerous external challenge to their independence than had ever had come from neighbouring city-states. They were, thanks to their mutual history of power politics and distrustfulness, unwilling or unable to unite towards the growing external threat. In the sixteenth century the French and Austro-Spanish Habsburgs finally overpowered them.[126]

The Renaissance was, however, not an exclusively Italian phenomenon. Its ideas and innovations spread to northern Europe through Italian diplomats and generals, employed by northern monarchs, and the invention of the printing press (circa 1450), which speeded up the circulation of books and thereby ideas, in the sixteenth century. The appearance of the Renaissance changed somewhat as it travelled north; its ideas were expressed not so much in art and literature as in religion and morals. Hence, it is common to separate between the heathen Renaissance that took place in Italy and the Christian Renaissance in the north.[127]

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[121] Robert H. Jackson: "The Evolution of International Society", p. 40f; and, John P. McKay, et.al.: *A History of World Societies*, pp. 443ff.

[122] Niccoló Machiavelli: *The Prince* (Chicago: Chicago University Press, 1985[1513/1532]).

[123] Björn Hettne: *Från Pax Romana till Pax Americana: Europa och världsordningen [From Pax Romana to Pax Americana: Europe and the World Order]*, p. 47.

[124] Robert H. Jackson: "The Evolution of International Society", p. 41. See also Adam Watson: *The Evolution of International Society*, Ch. 14 and 15.

[125] Robert H. Jackson: "The Evolution of International Society", p. 40; Robert. R. Palmer and Joel. Colton: *Nya tidens världshistoria [A History of the Modern World]* (Stockholm: Esselte Studium, 1986), pp. 49f. For a brief overview of the development of diplomacy in Renaissance Italy, see e.g. Torsten Örn: *Varför diplomati? Ett kulturhistoriskt perspektiv [Why Diplomacy? A culture-historical perspective]* (Stockholm: Wahlström and Widstrand, 2002), pp. 16ff.

[126] Robert H. Jackson: "The Evolution of International Society", p. 41.

[127] Robert. R. Palmer and Joel Colton: *Nya tidens världshistoria [A History of the Modern World]*, pp 44ff and pp. 51ff.

The Italians invented the modern independent state, the *stato*, in the fifteenth century. But, the first modern international society, however, based on large-scale territorial states, came not into existence until a little later in North-western Europe. It is from this latter regional international system that the present global international society has evolved. In spite of this evolution, empires continued to exist in Europe as well as in many other parts of the world until the twentieth century. Although the Europeans among themselves created a society of states, which was the very definition of political modernity, they at the very same time constructed vast empires to rule non-European political communities in the rest of the world.[128]

Early Modern European International Society

The developments in Renaissance Italy were, as indicated above, paralleled by a concurrent emergence of territorial-based monarchies in Western Europe, founded on cohesive political structures; the origins of this development dates back to the death of Charlemagne in 814, when Europe, as we now know, entered a period of disintegration and political anarchy. The political evolution of Western Europe after Charlemagne is, roughly speaking, possible to divide into three phases: (i) Between the ninth and eleventh century, emperors and popes generally cooperated. (ii) In 1073, with the accession of Pope Gregory VII, the second phase began, a period characterised by papal supremacy. (iii) The period of papal supremacy came to an end in 1296, when Philip IV of France won out over Pope Boniface VIII on the taxation of the clergy. In fact, Philip IV gained so much power over the Church that he was able to force the transfer of the papal seat from Rome to Avignon, from where the papacy collaborated openly with the growing French monarchy. By the end of the fifteenth century the trend away form the universal Church towards national monarchies was apparent not only in France but also in Spain and England (and eventually Sweden). Thanks to e.g. development in military technology, especially the development of artillery, which meant that feudal lords no longer could defy royal authority from behind their castle walls, as well as informal alliances between the monarchs and the growing merchant class, the "new monarchs", as they have been called, could secure their positions.[129]

The first among the new monarchs — Ferdinand and Isabella in Spain (1479-1516), Henry VIII in England (1509-1547), and, Francis I in France (1515-1547) — put the theories of Machiavelli in practice and thereby by necessity clashed with the two existing universal structures of Europe, the papacy and the empire. The conflict was sharpened by the rise of the Austro-Spanish dynasty, created via marriage ties. Ferdinand and Isabella married their daughter Joanna to Philip of Habsburg. For a time it seemed that Western Europe would be united once again, but the other European dynasties, especially the Valois of France, wanted otherwise. The result was a long series of wars, partly dynastic, but also religious, that lasted more or less a century and a half.[130]

It was also during this era that the West started to expand overseas (and hereby laying the foundation for the later global international society). In 1493 Pope Alexander defined a dividing line running 100 leagues west of the Azores and Cape Verde Islands. To the west of

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[128] Robert H. Jackson: "The Evolution of International Society", pp. 37f.

[129] L. S. Stavrianos: *The World since 1500: A Global History*, pp. 354f; Robert R. Palmer and Joel Colton: *Nya tidens världshistoria [A History of the Modern World]*, pp. 55ff; and, John P. McKay, et.al.: *A History of World Societies*, pp. 331ff, 345f, 397.

[130] L. S. Stavrianos: *The World since 1500: A Global History*, pp. 354f; John P. McKay, et.al.: *A History of World Societies*, pp. 456ff; and, Michael Donelan: "Spain and the Indies", in Hedley Bull and Adam Watson: *The Expansion of International Society* (Oxford: Clarendon Press, 1984), p. 81.

this line he granted all lands to Spain and to the east all lands to Portugal. A year later the line was modified and settled through the Treaty of Tordesillas (1494).[131]

Francesco de Vitoria (1492-1546), who was heavily inspired by St. Augustine, started a debate over the legitimacy of the Spanish conquest of South America. Against Spanish claims to wage war legitimately on the Indians, he declared that difference of religion is not a cause of just war. He located the criteria for a just war not in religion but in reason and natural law known to all peoples. Hereby he started the secularisation of the Just War Doctrine.[132] Francisco Suárez (1548-1617) continued this work later. Vitoria and Suárez completed the Scholastic theory of just war with the principle of proportionality. Besides a just cause, a summons by legitimate authority, and a right intention, these scholars teach that there must be a balance between the good to be recovered or preserved, the unjust situation to be remedied or prevented, and the evils that necessarily come in the wake of war, particularly the number of deaths. All peaceful means must be exhausted before having recourse to war. Finally, Vitoria and Suárez point out that the need for justification applies only to offensive not defensive war, since the principle of legitimate defence in the face of an attack is evident.[133]

The degradation of the Church touched upon above did not pass unnoticed internally, on the contrary. During the fifteenth century demands on ecclesiastical reforms arise over almost entire Europe. The initial aim of the reformers, which were active within as well outside the Church, was not to be left alone and practise religion on their own, but to purify the Catholic Church. This period has gone down to posterity as the pre-Reformation. The early opposition of the Church was fought down and the leaders of it were excommunicated. It was first with the German theologian Martin Luther (1483-1546) that the Reformation got a leader and developed into a popular movement. The ultimate goal of Luther was the religious liberation of man. Against the Catholic hierarchy and ecclesiastical dogmas, Luther argued in favour of the right for every Christian to interpret the Bible, the only foundation for belief, himself. Luther appealed to "national" motions and argued that the church should be subordinated the state. Hereby, he gained support from German princes and sovereigns as well as the kings in the new, arising, monarchies. Other reformers — like e.g. John Calvin (founder of Calvinism), and Henry VIII (who founded the Anglican Church) — followed Luther. The Catholics launched a counter-movement, the Catholic Reformation. The result of these movements, the Reformation and the Catholic counter-Reformation, was a long period of religious wars and (social) unrest in Europe. Even though the religious borders that eventually became permanent was established as early as 1560, they were not accepted in general until the end of the Thirty Year's War (in 1648); in Hungary the war between Protestants and Catholics even lasted until the beginning of the nineteenth century.[134]

Hence, if one wants to conclude the period of almost a century that followed after 1560 it is suitable to speak about an era of religious wars, since France, England, Spain and the Holy German Empire all were haunted by civil wars, in which religion was a controversial question, and all these nations, including Sweden and Denmark, at one occasion or another fought international wars, were religion was at stake. Religion, however, was not the only motive or cause of conflict. The unrest and wars were also about political, constitutional, economic and societal questions. Many of the civil wars were fought in the absence of a government, and all

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[131] L. S. Stavrianos: *The World since 1500: A Global History*, p. 373.

[132] For a very interesting and comprehensive contribution on Vitoria and the School of Salamanca, see: http://www.absoluteastronomy.com/encyclopedia/S/Sc/School_of_Salamanca.htm. The site was visited 2005-03-22.

[133] Cf. Luiz Sérgio Solimeo: "Just War According to Catholic Teaching" (2005). The article is available on: http://www.tfp.org/TFPForum/catholic_perspective/justwar.htm. The site was visited 2005-03-22.

[134] Robert. R. Palmer and Joel Colton: *Nya tidens världshistoria [A History of the Modern World], pp. 60ff; L. S. Stavrianos: The World since 1500: A Global History*, pp. 333ff; and, John P. McKay, et.al.: *A History of World Societies*, pp.443ff.

over Europe armed men, without any permanent homes or livings, roamed around fighting and marauding. The development peaked with the outbreak of the so-called Thirty Year's Wars in 1618, which was a German civil war about the Protestant-Catholic issue. It was also a German civil war about constitutional matters between the emperor, who wanted to centralise power, and his subjects, the political entities that constituted the German association of States, who fought for their independence. But it was also an international war between France and the Habsburg, between Spain and Holland, in which the monarchs of Sweden and Denmark as well as the Prince of Siebenbürgen participated. All the external parties found allies within Germany.[135]

Peace negotiations eventually started in Westphalia, in the cities of Osnabrück and Münster, in 1644. The negotiations were concluded in 1648 and the Peace of Westphalia was signed. During the negotiations the Pope played a reserved role and the German Emperor appeared as the great loser. Sweden and France was pointed out as guarantors of the peace treaties. Hence, the vertical empire model seemed to be a thing of the past. Instead, a completely different political order, the horizontal international society, based on the sovereignty of individual *territorial-states*, replaced it.[136]

Hence, in order to understand the dramatic changes that took place during the century and half that preceded the Peace of Westphalia, one has to be aware of the complicated interplay between the decline of the Catholic Church, the spread of profane and humanistic ideas as well as lay religiosity outside the church, the rise of new monarchies, which took place in struggle with existing feudal and religious structures, the division of Germany, the ambitions of Spain and the Habsburgs as well as many other things.

During the Thirty Year's War, more moderate Catholic and Protestant thinkers entered the scene; the lowest common denominator of these thinkers where the conclusion that religion was allowed to play a far to great role in peoples life.[137] No faith, it was argued, was important enough to justify a perpetual war, and after all there might be space for two churches in Western Europe. First of all people live in states and not in the Church, and what was needed, more than anything else, was political order, internal as well as external. Among these prominent thinkers, two stands out, and deserves to be mentioned. The two that I have in mind are Jean Bodin (1530-1596) and Hugo Grotius (1583-1645). Bodin was the first thinker developing the modern theory of sovereignty. He argued that in each society there must be a power strong enough to make laws for all others, if possible with their consent, if necessary without.[138] It is from this theory the idea about royally autocracy germinates. The legal philosopher and founding father of international law, Hugo Grotius, in a way forms the link between the old vertical and the new horizontal political order described above. He argued in favour of sovereignty, but, being a product of his time, he only focused on relations among Christians. In his famous book *De Jure Belli ac Pacis Libri Tres [The Laws of War and Peace]*, written in 1625, Grotius deals with how to restrict war and expand peace by clarifying standards of conduct that are insulated against religious doctrines and therefore able to govern the relations

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[135] Robert. R. Palmer and Joel Colton: *Nya tidens världshistoria [A History of the Modern World]*, pp. 80ff; L. S. Stavrianos: *The World since 1500: A Global History*, pp. 340ff; and, John P. McKay, et.al.: *A History of World Societies*, pp. 471ff.

[136] Robert. R. Palmer and Joel. Colton: *Nya tidens världshistoria [A History of the Modern World]*, pp. 60ff; L. S. Stavrianos: *The World since 1500: A Global History*, pp. 337ff; and, John P. McKay, et.al.: *A History of World Societies*, pp. 459ff,

[137] William C. Olson and A. J. R. Groom: *International Relations Then and Now: origins and Trends in Interpretation* (London: Routledge, 1991), pp. 5ff.

[138] For a more elaborated discussion regarding Bodin, see e.g. Charles R. Beitz: *Political Theory and International Relations* (Princeton: Princeton University Press, 1979. For the original text, see Jean Bodin: *Six Books on Commonwealth* (Abridged and translated by M. J. Tooley. Oxford: Basil Blackwell, 1955[1576]).

of independent states, Catholics and Protestants alike.[139] Hereby, Grotius contributed considerably to the secularisation of the Just War Doctrine, initiated by Vitoria and Suárez. He made the Doctrine more acceptable for the age of the Enlightenment. He argued that the Just War Doctrine exists externally of any recognised legal system; that it is a part of the "law of nations" which is followed by all civilized nations. For Grotius, it is not necessary to prove Just War Theory by consulting with any of the established laws of the nations of Europe, or their customs. Rather, those laws are known through the universal medium of the natural law, a law that transcends nations and their own particular legal codes, a law which is binding on all human societies in their interactions with each other.[140] The Liberal ideas of Bodin and Grotius had a great impact on the new political order of Europe that was established at the Peace of Westphalia in 1648, at least in theory.

At the same period, more exactly in 1651, Thucydides' perhaps most famous modern disciple, Thomas Hobbes, published a contribution to the Realist chain of thoughts about international relations entitled *Leviathan*. The theme in this book, written during an age of conflict, is the insecurity of human beings, living in constant fear of one another. This insecurity forces human beings to seek self-preservation. The result is a war of all against all. Within a single territory, the all-powerful authority of the state is able to contain such conflicts. But between states, they are likely to continue, since there is no sovereign power to maintain law and order as within the state(s). Interestingly Hobbes defines interstate anarchy as the cause of "the state of war".[141] This type of ideas (Realism) dominated the first centuries of more systematic thinking about international relations. Realist ideas have henceforth continued to play an important intellectual role in the understanding of world politics. Realist ideas have been dominating the world of international relations, Liberal ideas have only on rare occasions left the smaller circles of intellectuals and affected the conduct of world politics in practice.

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In the changeover from the Middle Ages to early modern time, we can identify a change in the structure of the world system, from unipolarity (i.e. empire) to multipolarity. The form of decision-making is getting more and more plurilateral in Europe during this period. This trend is clearly manifested by the Peace of Westphalia in 1648; the Peace Treaties were the first step towards a development of a more norm governed and regulated international society — however, still on a decentralised ground. We can, speaking about legitimacy, see a growing concern regarding international norms, not at least regarding *jus ad bellum*, which was further developed during this era, from being grounded in divine law to be grounded in natural law. Francesco de Vitoria and Francisco Súarez were responsible for this movement. In the end of the period a premature form of secular international law — *jus gentium* — is established.

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[139] Hugo Grotius: *De Jure Belli ac Pacis Libri Tres [The Laws of War and Peace]* (New York: Oceania, 1964[1625], translated by Francis W Kelsey). The book is available on: http://www.constitution.org/ gro/djbp.htm. The site was visited 2005-03-22. Grotius did not condemn war as an instrument of national policy, but he maintained that it was criminal to wage war except for certain causes. Much of his book is an attempt to make the conditions of warfare more humane by inducing respect for private persons and their property (i.e. *jus in bello*). See also Peter Malanczuk: *Akehurst's Modern Introduction to International Law*, pp. 15ff and 307.

[140] This section draws heavily on Mark Edward DeForrest's article "Just War Theory and the Recent U.S. Air Strikes Against Iraq" (2005). The article can be found on the Internet, see: http://law.gonzaga.edu/borders/ documents/deforres.htm. The site was visited 2005-03-23.

[141] See, Thomas Hobbes: *Leviathan* (London: Collier, 1962[1651]). Cf. William C. Olson and A. J. R. Groom: *International Relations Then and Now: Origins and Trends in Interpretation* (London: Routledge, 1991), p. 10; Michael W. Doyle: *Ways of War and Peace* (London: W. W. Norton and Company), 1997 pp. 111ff; Thorbjørn L. Knutsen: *A History of International Relations Theory*, pp. 86ff; and, Evan Luard: *Basic Texts in International Relations: The Evolution of Ideas About International Society* (London: MacMillan, 1992), p. 38.

Seventeenth-century international law became a substitute for the earlier (Christian) universal law. This development is, as we know, closely connected to the works of Hugo Grotius (the "father" of international law).

Although St. Augustine introduced the idea of a just war and the Middle Ages furthered its cause, it was not until the sixteenth and seventeenth centuries that a complete theory, which included the proper waging of a war, was established. Hostilities are, according to de Vitoria and Súarez, divided into two classes; armed attacks against peaceful societies, on the one hand, and, injurious actions taken against the same (generally defined as an infringement of a right), on the other hand. The first class from which an armed response resulted would be considered as a defensive war. This type of war was distinguished from the second class. An armed response to an injurious action was considered an offensive or aggressive war. According to Vitoria and Súarez a defensive war needed no special moral justification. They saw an armed response as an involuntary act forced upon a nation. The aggressive war, on the other hand, needed to be justified. An injurious action done does not involve destruction and death so how was it possible for the Christian deliberately to choose war as a response? The problem for them arose from the conflict between a Christian wanting love and peace but responding with death and destruction. So they proposed conditions under which a Christian could respond to injurious action while preserving Christian values. For them the just war conditions only apply to aggressive wars. They retain the three conditions of St. Thomas in their theory. But they add two more. First, the just war must be fought as a last resort. Second, the just war must be fought in a proper manner (without killing the innocent).[142] Hugo Grotius developed and conceptualised these ideas further. After Grotius however, the Just War Doctrine underwent relatively few modifications until the nineteenth century.

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[142] This section is heavily based on John Raymond's article "The Just War Theory".

World of Emerging West

The society of medieval Europe, before the establishment of separate states as we know them had a universal and very hierarchic structure. The Renaissance and the Reformation, however, shifted the practice of the society towards multiple independences. The rulers of the "new monarchies" took their cue from the Italian *stato* and spread it to all of Western Europe. The political theology of Martin Luther also contributed to disengage the political legitimacy of the state from religious sanction of *respublica Christiana*. The modern international society based on the ideas of Machiavelli and Luther, was developed in Europe, ratified at Westphalia in 1648, and eventually spread by Europeans over the rest of the globe.

The Peace of Westphalia marks an important turning point in European political, legal, religious, and social history. The treaties recognises, among other things, the sovereign, independent authority of the German princes. Without a central government, courts or any other means of controlling refractory rulers, the Holy Roman Empire (of German Nation) as a real state was effectively destroyed (even though the formal position of imperial dignity lasted until 1806). The treaties also denied the papacy the right to participate in German religious affairs. This restriction symbolised the reduced role of the church in European political matters. The Pope returned to the Vatican and participated henceforth in the political struggle among rising states more as a sovereign state among others than as a political entity with supranational claims. So did what remained of the (habsburgian) Holy Roman Empire of German Nation.[143]

The Westphalian treaties stipulated that the religious agreement settled in Augsburg 1555 should stand permanently. The only modification made was that Calvinism, along with Catholicism and Lutheranism, became accepted as a legally permissible creed.[144] But more important, the treaties also indicated the secular move away from religious legitimacy that has been the cornerstone of international society ever since. In fact, the treaties formally recognised the existence of separate sovereignties in one international society. Religion was no longer considered a legal ground for intervention or war among European states. Thus, the agreement created a new international covenant based on state sovereignty displacing the old idea of *respublica Christiana*.[145]

The Westphalian international society, in its early modern European phase was based on three principles. First, *rex emperator in regno suo* (the king is emperor in its own realm). This is a norm specifying that sovereigns are not subjected to any higher political authority (than themselves). Hence, every sovereign is independent and equal to every other sovereign. Second, *cujus regio, ejus religio* (the ruler determines the religion of his realm). This norm specifies that no outsiders have the right to intervene in a sovereign state, or jurisdiction, on religious grounds. Third, the principle of the balance-of-power, which was a principle, intended to prevent any hegemon from arising and dominating everybody else.[146]

Besides setting up an international system based on plurality of independent states recognising no superior authority over them, the two treaties of Westphalia set up a scheme for "collective security". Under this scheme, peace was to be enforced. The victim of a threat to peace or any serious violation was not to resort to war, but should, according to Art. 123, the

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[143] Björn Hettne: *Från Pax Romana till Pax Americana: Europa och världsordningen [From Pax Romana to Pax Americana: Europe and the World Order]*, pp. 51f, and, Adam Watson: *The Evolution of International Society*, pp. 182ff.

[144] Keith Tankard: "The Thirty Year's War" (2002). The article is available on: http://www.knowledge4 africa.co.za/worldhistory/hwic001.htm. The site was visited 2005-03-23.

[145] Adam Watson: *The Evolution of International Society*, pp. 186ff.

[146] Robert H. Jackson: "The Evolution of International Society", p. 43, especially Box 2.5.

Treaty of Münster, "exhort the offender not to come to any hostility, submitting the cause to a friendly composition or to the ordinary proceedings of justice". Article 124 imagines a cooling-off period, lasting as long as three years. If, at the expiry of this period, no settlement is reached, the injured state is entitled to wage war; all other contracting parties shall assist it by using force. In addition, states is duty-bound to refrain from giving military assistance to the offender, nor are they allowed to let its troops pass through or stay in their territories. This follows from article 3. Thus, the collective security system imagined in 1648 revolves round the following notions. First, a sweeping ban on the use of force; Second, a prohibition on individual self-defence, except after the expiry of a long period (up to three years); Third, the duty of all states other than the victim of a wrong act to act in collective self-defence.[147] This highly ambitious scheme for "collective security", however, remained a dead letter.

After 1648 the language of international justification, Robert H. Jackson writes, "gradually changed away from Christian Unity and religious orthodoxy and towards international diversity based on a secular society of sovereign states".[148] Indeed the treaties of Westphalia and those signed in Utrecht (1713) still referred to the *republica Christiana*, but they were the last to do so. What had come to existence in the meantime was a secular European international society, in which overarching religious and political authority was no longer in existence (in any substantive sense).[149] With the end of the Thirty Year's war, the era of religious war in Europe was brought to an end. By the end of the century the division between Protestants and Catholics was settled down, the Protestant Reformation and the Catholic counter-Reformation was accomplished facts.[150]

Hence, the procedural starting point of modern international society can be identified with the Peace of Westphalia.[151] The spread of European political control beyond Europe, however, started already in the late fifteenth century and came to an end in the early twentieth century. This expansion was not characterised only by European colonialism and imperialism, later it developed into a "genuine" expansion of international society. Since its interception, international society has encompassed states belonging to different geographical, cultural, and religious areas. In spite of the fact that the most intense intercourse took place between European states, treaties were also concluded with other states with which Europe had come into contact with, chiefly the Mogul Empire, the Ottoman Empire, Persia, China, Japan, Burma, and Siam, as well as Ethiopia, Liberia, and Haiti. But, for many centuries the most active and prominent members of the international society were the states in Europe. The U.S. joined in 1783, and the Latin American countries in the beginning of the nineteenth century. But non-Christian states lived for many years in the margin of the international society; not participating very actively, nor playing any major role. It was the European countries that set the tone from the outset and played a dominant role throughout.[152]

Non-European states bowed to Western "superiority" and eventually submitted the rules elaborated by the European countries and later the U.S. The Western countries developed two different classes of relations with the "outside" world, depending on whether this world was

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[147] Art. 3, 123, and 124, The Treaty of Münster (1648). See also Antonio Cassese: *International Law*, pp. 21 and 420, notes to Ch. 2, note 4.

[148] Robert H. Jackson: "The Evolution of International Society", p. 43.

[149] Ibid.

[150] Robert. R. Palmer and Joel. Colton: Nya tidens *världshistoria [A History of the Modern World]*, p. 121.

[151] Björn Hettne: *Från Pax Romana till Pax Americana: Europa och världsordningen [From Pax Romana to Pax Americana: Europe and the World Order]*, pp. 51f, and, Adam Watson: *The Evolution of International Society*, pp, 67ff.

[152] L. S. Stavrianos: *The World since 1500: A Global History*, Ch. 24 and 25; Björn Hettne: *Från Pax Romana till Pax Americana: Europa och världsordningen [From Pax Romana to Pax Americana: Europe and the World Order]*, pp. 67ff; Adam Watson: "European International Society and its Expansion", in Hedley Bull and Adam Watson (eds.): *The Expansion of International Society* (Oxford: Oxford University Press, 1984), pp. 13ff; Adam Watson: *The Evolution of International Society*, pp. 186ff; and, Antonio Cassese: *International Law*, p. 22.

made up of proper "states", such as the Ottoman Empire, China or Japan, or if it was made up of communities lacking any organised central authority and instead consisted of tribal communities or communities dominated by local rulers, as was the case in Africa but also different parts of Asia. With the former Western states based their relations on what has been known as the "capitulation system". The latter were considered mere objects of conquest and appropriation; and were therefore turned into colonies.[153]

Capitulations, Antonio Cassese writes, were agreements (most likely called so since they were divided into numbered chapter, so-called *capitula*) concluded by Western states with Moslem rulers, eventually the Ottoman Empire, some Arab countries (Egypt, Iraq, Morocco, Palestine and Syria), China, Japan, Persia, and Siam ever since the sixteenth century. The "capitulory" regime, clearly delineated with the treaty of 1740 between France and the Ottoman Empire, was consolidated in the seventeenth and eighteenth centuries. The purpose of capitulations was to impose conditions for the residence of Europeans and U.S. nationals in the territory of non-European countries. Most capitulations included the following basic provisions: (i) Europeans who where nationals of a contracting party could not be expelled from the country without the consent of their consul; (ii) they had the right to practise public worship of their Christian faith; (iii) they enjoyed freedom of trade and commerce and were exempted from certain import and export duties; (iv) reprisals against them where prohibited; and, (v) jurisdiction over disputes between Europeans belonged to the consul of the defendant or, in criminal cases, of the victim, while in the case of disputes between a European and a national of the territorial state the jurisdiction devolved upon the judges of the latter state.[154]

Several features of the capitulation regime are noteworthy. First, Europeans made their legal systems extraterritorial and thereby made up a legal community completely separate from the local one. Second, the "regime" was not based on reciprocity; it was unilateral. The overwhelming inequality on which capitulation rested was in fact clearly indicative of the existing relations. Third, certain states did not see capitulations as detrimental to their sovereignty. In Japan, for instance, national laws were considered as something sacred, for the benefit of which foreigners were not worthy of enjoyment. Even so, Western rights of extraterritoriality constituted severe restraints of the sovereignty of the territorial state.[155]

Countries lacking any state-like structure, or where governed by a great number of local authorities feuding one another frequently, experienced even more restraints in their sovereignty than did the states signing capitulation agreements. These countries were gradually subjected to the colonial domination of Western powers.[156]

Europeans first colonised the Americas. The countries on the Iberian Peninsula, Portugal and Spain, started the European expansion overseas in the late fifteenth century. Columbus "discovered" America in 1492. Later Asia became a desirable area. In 1497 the Portuguese explorer Vasco da Gama rounded the Cape of Storms (later renamed the Cape of Good Hope) and headed for India. He arrived to Calicut Harbour at the end of May 1498. A few years earlier the Pope, as mentioned earlier, had divided the world into two halves, one Portuguese and one Spanish. During the sixteenth century the Iberian countries led Europe in overseas enterprise, but by the end of the century they were rapidly slipping back from their respective position of primacy. The Dutch, French, and English were "poaching" with increasing success in Portugal's Eastern Empire and in Spain's American colonies. One reason for the decline was the countries involvement in the religious and dynastic wars of the sixteenth and seventeenth centuries. Another, and perhaps even more important reason for their decline was the fact that Portugal and Spain had become economic dependent of northwest Europe. During the

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[153] Antonio Cassese: *International Law*, p. 22.

[154] Op.cit., p. 23.

[155] Op.cit, pp. 23f.

[156] Op.cit., p. 24.

fourteenth and fifteenth century, northern commerce was controlled by the Hanseatic League, which played the same role as Genoa and Venice did in the Mediterranean world. In the sixteenth century, the Dutch, who in fact built such a large and efficient merchant marine that they eventually dominated the Atlantic seaboard, dislodged the Hansa. The Iberians, just like the Italians, were declining at this time from the status of developed to underdeveloped societies. The economically backward Iberian States were able to take the lead in overseas expansion, not due economic strength and dynamism, but a fortunate combination of favourable geographic location, maritime technology, and *religious* drive. However, they were not capable of exploiting their new empires effectively but were dependent on northwest European States.[157]

In the period between 1600 and 1763 Portugal and Spain were overtaken and surpassed by Holland, France and Britain. The remarkable rise of Holland was in part a result of its favourable geographic location, at the intersection of different trade routes, where basic trade commodities (such as herring, salt, wine, cloth, copper, iron, cereals, and timber) were transported. The Dutch began their rise to prosperity and greatness by serving as carriers of these commodities. With the building of the Iberian overseas empires, the Dutch picked up cargoes of new commodities in Lisbon and Seville and distributed them throughout the rest of Europe as well as supplied Portugal and Spain with naval stores. At the end of the sixteenth century the Dutch seriously began to challenge Portugal's empire in the East.

By 1602 the Dutch amalgamated a number of private trading companies into one great national concern, the Dutch East India Company. This eventually drove the Portuguese from the East Indies, Malacca, and Ceylon. However, the Dutch expansion did not stop with this. They also established a base on Formosa and from there controlled the commerce routes to China, Japan, and the Indies. For more than 200 years the Dutch were the only connecting link between the West and Japan. Eventually the Dutch East India company established a network of fortified posts to enforce its trade monopoly by closing treaties with local rulers; the treaties led to alliances and in turn to protectorates. By the end of the seventeenth century they administering only a small area, but numerous nations making up a much greater area had become protectorates. During the eighteenth and nineteenth centuries these protectorates were annexed outright. By this strategy, the Dutch created themselves a great territorial empire.[158]

However, during the eighteenth century Holland fell behind France and Britain in economic development and overseas activity. One reason for this decline was, according to L. S. Stavrianos, the persistent efforts of France and Britain to build up their merchant marines by using discriminatory decrees, such as the British Navigation Acts that were passed from 1651 and onward, against Holland. The Dutch were also weakened by a number of exhausting wars with, on the one hand, Britain from 1652 to 1674 over mercantile disputes, and, on the other hand, France from 1667 to 1713 over the territorial ambitions of Louis XIV. Thus, the Dutch were under attack by the British on sea and the French on land. In the long run the Dutch could not resist the pressure from their rivals, since they lacked their resources. France had a large population, a flourishing agriculture, and a rich homeland with outlets around the globe. The English had greater natural resources than the Dutch. They also enjoyed the great advantage due to its insular location, sparing them the cost of periodic invasions.[159] Economically speaking Britain was, after ending their civil war in 1688, much stronger than Holland was.[160] British, as well as French, export expanded much more than the Dutch. To be

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[157] L. S. Stavrianos: *The World since 1500: A Global History*, Ch. 24; John P. McKay, et.al.: *A History of World Societies*, pp. 499ff; and, Antonio Cassese: *International Law*, p. 24.

[158] Robert. R. Palmer and Joel Colton: *Nya tidens världshistoria [A History of the Modern World]*, pp. 125ff, and, L. S. Stavrianos: *The World since 1500: A Global History*, pp. 385ff.

[159] L. S. Stavrianos: *The World since 1500: A Global History*, pp. 389ff.

[160] Britain did not play a salient role in the Thirty Year's War and was almost the only nation, west of Poland that was not represented at the peace negotiations in Westphalia. The reason for this was that the British were

very brief, Holland gave way to France and Britain in the eighteenth century for the very same reason that Britain and France were, as will be argued *intra*, to give way to the U.S. and the USSR in the twentieth century.[161]

The takeover of France and Britain on the global scene was not marked by consent or peacefulness, on the contrary. Broadly speaking, the second half of the seventeenth and the first half of the eighteenth century were characterised by a struggle between Britain and France for colonial supremacy. The two countries were in face-to-face combat throughout the globe — in India, in North America, and in Africa. The colonial and commercial rivalry between France and Britain was fought out in a series of four wars — the War of the League of Augsburg, or King William's War (1689-1697); the War of the Spanish Succession, or Queen Anne's War (1701-1713); the War of the Austrian Succession, or King George's War (1740-1748); and finally, the Seven Year's War, or the French and Indian War (1756-1763) — that lasted for almost century. All these wars had two phases, therefore also two names, one European, revolving dynastic ambitions, and one overseas, revolving different issues, such as the balance-of-power in India, conflicting territorial claims in America, terms of trade in the Spanish colonies, and control over world trade routes The duel between the two empires eventually ended in an overwhelming British triumph in 1763, with the signing of the Treaty of Paris. One reason for the British triumph was that France, in fact, was less interested in overseas possessions than in European hegemony. These aspirations, delineated by the thirty-five year expansionist policy driven by Louis XIV (also known as *le Grand Monarque*), were, however, brought to an end already with the Peace of Utrecht (1713), mainly by England, but also Holland. Another reason was that many more Englishmen than Frenchmen emigrated to the colonies. The remarkable development of Britain's industry also contributed substantially to its success in overseas competition.[162]

The Peace of Utrecht clearly represented the so-called "balance-of-power" principle that became the prime political principle regarding international relations after the Peace of Westphalia in operation. In this case it was towards France, and the imperial ambitions of Lois XIV, the power balance was directed.[163] But what is "balance-of-power"? And, what is European equilibrium? These concepts, which are intertwined, have several different meanings. It might therefore be illuminating to make a stop and elaborate them shortly.

With (European) equilibrium is understood a situation where power is divided between many different sovereign states. If such a situation is present, then there is balance. A second meaning is revealed when this balance is disturbed. If one state is predominating, the other states, all of them or just a few, can enter into a coalition towards the predominating state. Then, the coalition becomes the balance, or to be more correct, the counterbalance, that restores the (disturbed) balance or equilibrium. Finally, it is possible to speak about maintaining or controlling the balance. In this case, balance refers to the increase in weight or power that one state can mean. Hence, if one state is a necessary member in a coalition, i.e. it is more necessary for its allies than the allies are for the state in question, then it can be said that this state is controlling the balance; or, if it does not belong to a coalition but tries to keep other states in a state of equilibrium in such a way that its on intervention on one of the sides should

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occupied with a civil war, not between Protestants and Catholics, as was the case on the continent, but between extreme (so-called Puritans) and moderate Protestants, who belonged to the British national church. The civil war in England was, however, in some respects similar to the war(s) on the continent. It was not only a religious war, but also a war about political and constitutional issues. Robert. R. Palmer and Joel Colton: *Nya tidens världshistoria [A History of the Modern World]*, p. 129.

[161] L. S. Stavrianos: *The World since 1500: A Global History*, pp. 382ff; Antonio Cassese: *International Law*, p. 24; and, Robert. R. Palmer and Joel Colton: *Nya tidens världshistoria [A History of the Modern World]*, pp. 203ff.

[162] L. S. Stavrianos: *The World since 1500: A Global History*, pp. 391f.

[163] John P. McKay, et.al.: *A History of World Societies*, pp. 532f.

be determining, then it can also be argued that this state is controlling the balance, even though it does not participate in the balance itself.[164]

The ultimate goal of the balance-of-power politics that was carried out during the seventeenth and eighteenth century by the states was to guard their sovereignty and maintain the field of manoeuvre. Hence, the basic rule was to ally oneself against every state threatening to reach supremacy. The purpose of the balance-of-power politics was not to maintain peace but to preserve the sovereignty and independence of the European states. The combinations were complicated and alliances were closed and dissolved rapidly, depending on the current situation. The system worked effectively during this period, one reason for this was the existence of several states able to carry out an independent foreign policy.[165] As a consequence, the distinction between just and unjust wars broke down; the category of *bellum justum* (just wars) began to be dangerously extended.[166]

Except for Britain, it was more or less the very same states that signed the peace treaty of Utrecht 1713 as it was signing the treaties of Westphalia around seven decades later. The former peace treaty confirmed the system of international relations, based on sovereignty and independence, outlined in 1648. The contracting parties accepted one another as sovereign states, united only through voluntarily agreements, wars and treaties. They dealt with their controversies via relatively smooth exchanges of territories, done in the interest of power balance rather than concern to nationality of the people affected by concessions made.[167] The states of the time were *territorial-states*, not *nation-states*.

The remaining part of the first half of the eighteenth century (from 1713-1763) was marked by the Anglo-French rivalry for colonial supremacy, trade, and control of the seas and it contained, as argued above, several wars between the two antagonists. The period is known for its dramatic reversal of alliances and intense diplomacy.[168] But dramatic changes occurred not only in politics and diplomacy but also in economics.

During the eighteenth century, Europe became a centre, from where it was possible to reach America, Asia, and Africa. For the first time in history a large intercontinental trade had developed. Before 1500, Arab and Italian merchants transported luxuries — such as spices, silk, precious stones, and perfumes — from one part of the Eurasia to another. By the late eighteenth century the relatively limited luxury trade had been transformed into a mass trade based on the exchange of new, bulky necessities. The first one to befit from this intercontinental trade was the Spanish and the Portuguese. But, their decline during the seventeenth century opened up for, in order, Holland, France, and Britain.[169]

Thanks to the voyages of the Columbus as well as other explorers, profits started to pour into Europe. This external economic boost, combined with an internal commercial revival and technological progress led to a greatly increased use of money in the economies of Europe. This increasing use of money contributed to undermine the feudal order that hade developed after the fall of Rome. It also undermined the feudal craft and merchant guilds in the towns. But Europe's economy changed not only by the growing use of money but also the minting of standardised coins that were acceptable everywhere as well as the development of banks and of various credit instruments. What was happening in Europe during the fifteenth and sixteenth

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[164] Robert. R. Palmer and Joel Colton: *Nya tidens världshistoria [A History of the Modern World]*, p. 122.

[165] Op.cit., p. 123.

[166] Malanczuk: *Akehurst's Modern Introduction to International Law*, p. 307.

[167] Robert. R. Palmer and Joel Colton: *Nya tidens världshistoria [A History of the Modern World]*, pp. 154ff; and, John P. McKay, et.al.: *A History of World Societies*, pp. 532f.

[168] L. S. Stavrianos: *The World since 1500: A Global History*, pp. 389ff; and, Adam Watson: *The Evolution of International Society*, Ch. 18.

[169] See Patrick O'Brien: "Europe in the World Economy", in Hedley Bull and Adam Watson (eds.): *The Expansion of International Society* (Oxford: Clarendon Press, 1984), pp. 43ff; and, L. S. Stavrianos: *The World since 1500: A Global History*, pp. 389ff; and, Adam Watson: *The Evolution of International Society*, p. 417.

century was a historic shift, from a feudal economic order to a fundamentally different type of economic system "capitalism".[170] Capitalism has been defined as "[a] system in which the desire for profits is the driving motive and in which e accumulations of capital are employed to make profits by various elaborate and often indirect methods".[171] The emergence of capitalism was, L. S. Stavrianos writes, truly epoch making. No earlier societies or economic systems had been based on the notion *growth*. Capitalism affected not merely the economy but all aspects of life.[172] Initially capitalism was based on merchant capitalist and handicraft industrial methods. It was first later, during the late eighteenth and early nineteenth century the usage of machines, operated by steam and waterpower, started. During the 1780s a breakthrough in productivity occurred, or, to put in the economical terms, there was a take-off into self-sustained growth. This development started in Britain and spread gradually to the continent of Europe, and eventually to the rest of the world.[173] The economic development led, in extension, to thorough social changes.

The Europeans gave birth not only to a new economic system, the capitalist market economy, but also created a "world economy". In Europe, merchant capitalism, home industries, and mercantilism flourished during the eighteenth century. At the end of the century the industrial revolution had already begun in Britain. Almost all the profits from the growing world trade ended up in Europe. The economic developments, beside the political ones, paved the way for a dramatic social change to be and contributed to the coming world domination by North-western Europe.[174] The capitalist economic system not only dominated the world economy in early modern times but it continues to do so currently.

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The early modern period, reaching from c. 1500 to the end of the Seven Year's War represents a "halfway" point between, on the hand, the regional isolationism of the preceding ages, and, on the other hand, the European world domination of the nineteenth century. In Economic terms it was a period when Europeans extended their trading activities to, in principle, all corners of the globe, though they were not (yet) able to exploit the inland parts of the great landmasses.

In political terms, the world was still far from being a single unit. The Seven Year's war did not affect North America west of Mississippi, nor the inlands of Africa, nor the most of the Middle East, and nor any of East Asia. The Europeans, however, had secured their position in Siberia, South America, the Eastern part of North America, as well as a number of (coastal) territorial enclaves in Africa, India and the East Indies.

In cultural terms, it was a period of widening horizons. All over the globe peoples were becoming aware of one another. By and large, the Europeans were more impressed and

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[170] For much more elaborated discussions regarding these questions, see e.g. David S. Landes: *The Wealth and Poverty of Nations* (New York: W. W. Norton and Company, 1998); and Kenneth Pommeranz: *The Great Divergence: China, Europe and the Making of the Modern World Economy* (Princeton: Princeton University Press, 2000).

[171] S. B. Clough and C. W. Cole: *Economic History of Europe* (Washington D. C.: Heath, 1952), p. 66. The quote is taken from L. S. Stavrianos: *The World since 1500: A Global History*, pp. 389ff; See also Adam Watson: *The Evolution of International Society*, p. 353.

[172] L. S. Stavrianos: *The World since 1500: A Global History*, pp. 389ff; and, Adam Watson: *The Evolution of International Society*, pp. 351ff.

[173] L. S. Stavrianos: *The World since 1500: A Global History*, pp. 389ff; and, Adam Watson: *The Evolution of International Society*, pp. 417ff. See also Robert. R. Palmer and Joel Colton: *Nya tidens världshistoria [A History of the Modern World]*, pp. 200ff; and, Björn Hettne: *Från Pax Romana till Pax Americana: Europa och världsordningen [From Pax Romana to Pax Americana: Europe and the World Order]*, pp. 67ff.

[174] L. S. Stavrianos: *The World since 1500: A Global History*, p. 410ff.

affected by the ancient civilisations of Eurasia, than the other way around. They felt a sense of wonder as they "discovered" new oceans, continents, and civilisations. At the same time as they greedily were scrambling for booty and trade, they exhibited some humility. They even suffered an occasional anxious searching of conscience (as in the case of the conquistadors). But, before the end of the period, Europe's attitude had hardened and becoming more intolerant. This development continued during the nineteenth century.

The European international society was pluripolar and it showed plurilateral features. But the earlier developed distinction between just and unjust wars slowly began to break down. Theologians, Peter Malanzcuck writes,

> were particularly concerned with the state of man's conscience, and admitted that each side would be blamed if it is genuinely believed that it was in the right, even though one of the sides might have been objectively in the wrong (this was known as the doctrine of probabilism).[175]

Furthermore, the category of *bellum justum* (just wars) was dangerously extended. Even though writers like Hugo Grotius had made some serious attempts trying to refine and re-establish the traditional Just War Doctrine, the eighteenth century (as well as the nineteenth century) produced an almost complete abandonment of the distinction of what should be considered as legal and illegal wars, respectively. Wars were said to be just if they were fought for the defence of certain vital interests, but at the end of the day, each sovereign state was the sole judge of its vital interests, which were never defined with any attempt at precision. The whole doctrine of vital interests constituted not a legal criterion of the legality of war, but a source for political justifications and excuses, to be used for propaganda purposes. Hence, the limits on the right to start war gradually declined during this period.[176]

European states entered into competitions with one another to control and penetrate economically desirable and military useful areas in other parts of the world. Non-Europeans states and other political entities were forced to bow for Western superiority, either trough capitulations or conquest and appropriation. The existing international society was European, not global.

To conclude, the world domination by North-western Europe, politically as well as economically, eventually led by the British, did not materialise until after 1763, but it was during the period between the Peace of Westphalia and the end of the Seven Year's War that the basis for this coming domination was laid.

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[175] Peter Malanczuk: *Akehurst's Modern Introduction to International Law*, pp. 306f.
[176] Op.cit., p. 307.

The World of Western Dominance

The century and half between the end of Seven Year's War (1763) and the outbreak of WW I (1914) stand out in the course of history as a period of European domination over a large part of the entire globe. This expansion was made possible by the continuation and acceleration of the processes described above. Processes that, in turn, was set in motion earlier by the Renaissance, Reformation, state-building, the development of capitalism, developments in technology, and overseas expansion. These, L. S. Stavrianos writes, triggered a chain reaction in the form of three great evolutions — a scientific, industrial, and political one — that gave Europe irresistible dynamism and power. The revolutions, which were intertwined, were, as we know, well away before 1763, but the worldwide impact of them was not felt until the nineteenth century.[177]

Science can be traced to ancient China, Egypt, and Mesopotamia; to classical Greece; and to the medieval Moslem world. Yet the scientific revolution is a unique product of the Western civilisation. The reason is that only in West did science become part and parcel of society in general. It was this union between science and society as well as of scientist and artisan, of know-why and know-how, that contributed greatly to the exceptional flourishing of science in the European countries. This epochal development took place in the West due to the humanistic scholarship of the Renaissance. But, L. S. Stavrianos argues, the fruits of the human scholarship could not have brought about the scientific revolution if it had not been for the favourable social atmosphere in Western Europe. The strong prejudice that existed in ancient times against combining creative learning and manual work, arising from the ancient association of manual work with slavery, persisted in medieval Europe even after slavery had disappeared. During the eighteenth century this prejudice vanished. The discoveries of explorers and the opening of overseas lands also stimulated science. Eventually science became an integral part of economic life. At the end of the nineteenth century, science was an increasingly important part of Western society.[178]

The earlier discussed commercial revolution contributed, together with the scientific revolution, to the industrial revolution in several important ways. The commercial revolution provided large and expanding markets for European industries. It also contributed to the large amounts of capital necessary to finance the construction of factories and machines for the industrial revolution. Profitable commercial enterprises together with technological growth (and institutional change) explain why the industrial revolution could take place first in Britain, and later on to the continent of Europe.[179]

Western Europe's domination of the world in the nineteenth century was, however, not based entirely on its scientific and industrial revolution but also on its political revolutions. In essence the political revolutions meant the end of the concept of a divinely ordered given division of people into rulers and rules. The political revolutions in England, America, and France, respectively, developed, like the scientific and economic revolution, in several stages. In the wake of the economic revolution, new classes, with new interests, were created. During most of the Middle Ages, there were three well-defined social groups in Western Europe: the nobility, the clergy, and the peasants. With the development of commerce a new class, the urban bourgeoisie appeared. The bourgeoisie, who disliked the special privileges of the feudal

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[177] L. S. Stavrianos: *The World since 1500: A Global History*, p. 431.

[178] Op.cit., pp. 434ff; See also John P. McKay, et.al.: *A History of World Societies*, Ch. 18; and, Robert. R. Palmer and Joel Colton: *Nya tidens världshistoria [A History of the Modern World]*, Ch. 7.

[179] L. S. Stavrianos: *The World since 1500: A Global History*, pp. 438ff; John P. McKay, et.al.: *A History of World Societies*, Ch.24 ; and, Robert. R. Palmer and Joel Colton: *Nya tidens världshistoria [A History of the Modern World]*, pp. 384ff.

order, made initially alliances with the national monarchies. Eventually these alliances became less and less profitable for the bourgeoisie and they turned against the kings in order to free themselves from royal restrictions on commerce, a growing burden of taxation, and restraints on religious freedom. These objectives were important features in the English, American, and French revolutions. Eventually, the success of these revolutions also meant the success of classical liberalism. The proletariat and socialism, in turn, challenged the bourgeoisie and liberalism. The political revolutions were powered not only by liberalism and socialism but also by nationalism. The three creeds, liberalism, socialism, and nationalism, are the basic components of the political revolution carried out in Britain, France, and the US, respectively.[180]

For Britain, the seventeenth century was a period of internal disorder and civil war. We recall from above that the British were not represented at the peace negotiations in Westphalia (1648). The essence of the disorder in Britain was a conflict between the royal power and the traditional medieval parliament. At the end of the century, in 1688 to be precise, the parliament eventually gained victory over the royal power and became the practically operating government. The events of 1688 have gone down to posterity by the name the *Glorious Revolution*, since it is considered to have established parliamentarianism in England.[181]

The eighteenth century, at least the part preceding the French revolution in 1789, is usually known as the "Enlightenment". The term owes it origins to the fact that the leaders of this movement actually believed that they lived in an enlightened era. They viewed the past more or less as a time of superstition and ignorance, and they thought that only in their days were humanity at last emerging from darkness to sunlight. One basic characteristic of the period was the idea of progress; with the Enlightenment it began to be generally assumed that the condition of human beings would steadily improve. The ideas of the Enlightenment had its roots in the scientific and intellectual revolution that begun during the seventeenth century. It was the *philosophes* (publicists and popularizers rather than formal philosophers) that, through plays, novels, essays, and histories, spread the ideas of the Enlightenment. Most famous among the *philosophes* are the French trio Charles de Secondat, Baron de Montesquieu (1689-1755), Francois-Marie Arouet, known under the nom de plume Voltaire, (1694-1778), and Jean Jacques Rousseau (1712-1778). Different in many aspects the *philosophes* shared one characteristic; the law of gravitation, demonstrated by Isaac Newton in the 1680s, influenced them all. The *philosophes* believed in the existence of natural laws regulating not only the physical universe but also human society. They tried to apply reason to all fields in order to discover these laws. A consequence of this work was a devastating criticism of existing societal order in Europe and, in extension, the development of a set of revolutionary principles by which they wanted to reorganise society. They argued in favour of "laissez-faire" in economics, "tolerance" and "moderation" in religion, and "social contracts" in politics.[182]

Even if the *philosophes* did not discovered very many, or any, fixed laws governing all humankind, their ideas and writings influenced thinking people in many parts of the world. They persuaded a number of European monarchies to accept some of their doctrines. These rulers are known as the "benevolent despots". The best known of these benevolent despots are Fredrick the Great of Prussia (1712-1786), Catherine the Great of Russia (1729-1796), and Joseph II of the Habsburg Empire (1741-1790).[183] The role of the benevolent despots in

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[180] L. S. Stavrianos: *The World since 1500: A Global History*, p. 457ff; and, also John P. McKay, et.al.: *A History of World Societies*, Ch. 23.

[181] Robert. R. Palmer and Joel Colton: *Nya tidens världshistoria [A History of the Modern World]*, pp. 384ff; and, John P. McKay, et.al.: *A History of World Societies*, pp. 549ff.

[182] L. S. Stavrianos: *The World since 1500: A Global History*, pp. 461ff; John P. McKay, et.al.: *A History of World Societies*, pp. 570ff; and, Robert. R. Palmer and Joel Colton: *Nya tidens världshistoria [A History of the Modern World]*, pp. 261ff.

[183] Robert. R. Palmer and Joel Colton: *Nya tidens världshistoria [A History of the Modern World]*, pp. 272ff.

putting the ideas of the Enlightenment in practice should, however, not be overestimated.[184] The Enlightenment did not have any deep impact on the masses of the people in Europe until the outbreak of the French revolution in 1789. But before then, a revolution, in which the ideas of the *philosophes* were put to practice, broke out in Britain's thirteen colonies in North America.

During the period between 1763 and 1789 — i.e. at the same time as the benevolent despotism in Europe — the vast majority of the British colonies successfully revolted and established a new state, a republic, named the United State of America. This was formally done on the 4th of July 1776 when the Congress adopted the Declaration of Independence. George Washington, assisted by France, finally defeated the British at Yorktown in 1781. The peace treaty, which recognised the independence of the American republic, was signed at Paris in 1783.[185] The consequences of the American Revolution are hard to overestimate. It directly, due to strains of the French economy following from the country's participation in the American war of independence, contributed to the revolution in France a few years later.[186] The American state that was made by the new constitution differed from the old states in Europe. It had e.g. no king, no standing army, and was based on the principle of division of power, between the president, the Supreme Court, and the parliament, on the one hand, and, the governments in the states and the Federal Government, on the other hand. Another characteristic of the new American state was that it isolated itself from European politics as much as possible, and interacted only with the "old" continent economically.

The French Revolution and the Napoleonic Era

The French revolution in 1789 come out much larger on the stage of world history than the English or the American Revolution did, L. S. Stavrianos writes. It brought about more economic and social change and influenced more of the globe than did earlier upheavals. It marked not only the triumph of the bourgeoisie but also full awakening of the masses, and, in extension, *nationalism*. The political unrest in France started as an aristocratic revolution in 1787, developed into a bourgeois revolution in 1789, and ended up, later the same year, as a mass revolution, when the Bastille was assaulted.[187]

Although the king in Paris was more or less powerless after the revolution, many individuals of the nobility and the clergy were determined to regain their lost privileges and estates. Some of them fled abroad, where they worked to mobilise the aid of foreign powers in a war against the new regime in France. Their efforts were eventually successful. In parallel, the radical members of the National Assembly in Paris argued in favour of war. They thereby hoped to establish a republic in France, on the one hand, and, spread the revolutionary doctrine outside the borders of France, on the other hand. In April 1792, Austria and Prussia marched towards France. The king was dethroned and a National Convention was elected in August the same year. In December the king, Louis XVI, was executed. In spite of the internal disturbances, France was able to defend itself from the attack by Austria and Prussia. In 1793 Britain, Holland, and Spain joined the coalition against France. By 1795 the enemy coalition was crushed.[188] At the same time, the National Convention in France became more and more

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[184] L. S. Stavrianos: *The World since 1500: A Global History*, p. 463.

[185] Op.cit, pp. 463f; John P. McKay, et.al.: *A History of World Societies*, pp. 717ff; and, Robert. R. Palmer and Joel Colton: *Nya tidens världshistoria [A History of the Modern World]*, pp. 289ff.

[186] L. S. Stavrianos: *The World since 1500: A Global History*, p. 466.

[187] Op.cit., p. 466. See also: John P. McKay, et.al.: *A History of World Societies*, p. 720.

[188] Robert. R. Palmer and Joel Colton: *Nya tidens världshistoria [A History of the Modern World]*, pp. 261ff; See also, L. S. Stavrianos: *The World since 1500: A Global History*, pp. 469; John P. McKay, et.al.: *A History of World Societies*, pp. 727ff.

radical. Thousands were charged with treason, merely with insufficient patriotism. The period between 1792 and 1795 is known as the *Reign of Terror*.[189]

At the end of this period, in 1795 to be precise, the German philosopher Immanuel Kant wrote his important essay, *Toward Perpetual Peace*, arguing in favour of a global federation of representative governments; in extension he argued in favour of "cosmopolitanism".[190] To this I will return *intra*.

The terror in France got out of control. The revolution became to radical for the bourgeoisie and the radical elements were brought of control, first by the directory of five in 1795, and eventually by Napoleon Bonaparte in 1799.[191] Napoleon, a brilliantly successful general, used his reputation and popularity to overthrow the Directory. He governed France first as consul from 1799 to 1804 and then as Emperor from 1804-1814. Two features o Napoleon's fifteen-year rule is noteworthy, on the one hand, his domestic reforms (including e.g. centralisation of the administration, codification of laws, organisation of national education, and establishment of the Bank of France), and, on the other hand, his military campaigns, ultimately with the purpose to create a French Empire on the European continent.[192] The French emperor was even more successful than Adolf Hitler was later in his ambition to "unify" Europe in political terms.

The four great powers of Europe, the UK, Austria, Russia, and Prussia were not in the field together against France until 1813. The reason for this was internal disagreements and different goals. Napoleon was fabulously successful and by 1810 he reached the height of his fortunes. By then, Napoleon controlled all of Continental Europe, except the Balkan Peninsula. The Napoleonic domains were of two kinds. The core was the French Empire; then there were several layers of dependent states, which together with France constituted the Great Empire. In the North and the East there were the allied states, Prussia, Austria, Russia as well as Denmark (and for a short while Sweden) who where at war with the UK. Napoleon's chief goal was to crush the UK and create a self-sufficient continental system.[193]

However, Napoleon's non-French subjects eventually grew tired of the requisitioning, the taxes, the conscription, and the wars. Slowly people become nationalistic and started to develop movements of resistance against Napoleon and his European internationalism and the continental system. Most fatal for Napoleon was the resistance he met when he invaded Russia in 1812. After the retreat from Moscow, where as many as 400.000 soldiers fall, all anti-Napoleonic forces joined together; Prussia and Austria joined Russia. The UK was already in war with France. The four countries signed the Treaty of Chaumont on the 9th of March 1814 and formed the Quadruple Alliance. Around four weeks later Napoleon abdicated and the Bourbon dynasty was restored. A peace was signed in Paris in May 1814. France got the same border as in 1792, i.e. the ones that the country had before the war.[194] The Peace of Paris was followed by a great conference in Vienna that started in later the same year.

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[189] Robert. R. Palmer and Joel Colton: *Nya tidens världshistoria [A History of the Modern World]*, pp. 325ff.

[190] Immanuel Kant: *Perpetual Peace* (translated by Lewis L. Beck) (New York: Bobbs-Merrill Publishers, 1957[1795]). Regarding the concept cosmopolitanism, see e.g. *The Stanford Encyclopaedia of Philosophy*: "Cosmopolitanism". The Encyclopaedia is available on: http://plato.stanford.edu/entries/cosmopolitanism/#1. The site was visited 2005-03-24.

[191] John P. McKay, et.al.: *A History of World Societies*, pp. 733.

[192] Op.cit., pp. 734f; L. S. Stavrianos: *The World since 1500: A Global History*, p. 469f; and, John P. McKay, et.al.: *A History of World Societies*, pp. 734ff.

[193] Robert. R. Palmer and Joel Colton: *Nya tidens världshistoria [A History of the Modern World]*, pp. 344ff.

[194] Op.cit, pp. 364ff; and John P. McKay, et.al.: *A History of World Societies*, pp. 735ff.

The Vienna Conference and the European Concert

The overall aim with the Vienna Conference, which lasted from September 1814 to June 1815, was to reconstruct the European international system after the revolutionary and Napoleonic wars. Participated did the countries that had signed the Paris Peace Treaty a few months before: Austria, Russia, Prussia, England, Spain, Portugal, Sweden, and France. The most important missions for the members of the conference were to secure the peace and protect Europe from future political upheavals. This was done by implementation of two principles; on the one hand, the so-called principle of legitimacy, and, on the other hand, the above discussed balance-of-power principle. The core idea of the former principle was that only royal houses in the line of succession should be entitled to state authority. Hence, the Sovereigns that Napoleon had expelled should be reinstalled. By the balance-of-power principle the victorious powers wanted to create guarantees against future French conquests. Consequently, France became surrounded by strong states: Belgium and Holland were united to the Netherlands, the Rhine provinces went to Prussia; in Germany the (the loose) Germanic Federation were created by 38 independent states (including Prussia and Austria); Sardinia was given Savoy back; and, Swiss became neutral on a permanent basis. Furthermore, Prussia and Austria was expanded; Russia received Poland (via a personal union); England received, among other territories, Malta and the Cape Colony (in Southern Africa); and, Sweden received Norway.[195] Italy was at the time merely a geographic expression, in reality made up of nine states — all of them dominated by Austria.[196] The allied powers were, however, due to self-interest as well as traditional ideas about the balance-of-power, relatively moderate towards France at the negotiations in Vienna.

This moderation enabled France to regain its Great Power status and end its diplomatic isolation. Unfortunately for France, Napoleon escaped from his prison located on the island of Elba and landed in France on the 1st of March 1815 and once again declared himself as emperor. As a consequence, war once again broke out in Europe. Napoleon was finally defeated at Waterloo in June the same year. The peace concluded after Napoleon's defeat was still relatively moderate towards France. The rest of the settlement that had been concluded in Vienna was left intact. The members of The Quadruple Alliance, however, decided to meet periodically to discuss their common interests and to consider appropriate measures for the maintenance of peace in Europe. This agreement marked the beginning of the European "congress system" — known as the *Concert of Europe* — which lasted long into the nineteenth century and, in fact, settled many international crises trough balance-of-power diplomacy and international conferences.[197]

After the defeat of Napoleon, order in Europe was, Adam Watson concludes, maintained by the collective hegemonial authority of the Concert of Europe, eventually a concert of *all* great powers in the European international society, not just the victors. Other states were able to affect the working of the society in proportion to their influence and power (i.e. their weight in the system) and were able to affect the discussions and action of the great powers. The Concert of Europe, which was bolstered by Kantian logic, in fact, meant that the great powers accepted limits to their own freedom of action and imposed limits on other states. It produced political order by providing a flexible machinery for setting disputes (even if some adjustments were effected by the limited use of force). The great powers felt responsible for the functioning of the European system of states as a whole.[198] If conflicts of interests or new revolutionary

[195] Op.cit.; pp. 377f; John P. McKay, et.al.: *A History of World Societies*, pp. 776ff; and, Robert H. Jackson: "The Evolution of International Society", p. 44.

[196] L. S. Stavrianos: *The World since 1500: A Global History*, p. 470.

[197] John P. McKay, et.al.: *A History of World Societies*, p. 777f; and, Robert. R. Palmer and Joel Colton: *Nya tidens världshistoria [A History of the Modern World]*, p 377f.

[198] Adam Watson: *The Limits of Independence: Relations Between States in the Modern World*, p. 6.

movements appeared the powers of the Concert united to solve these problems at European conferences or, if necessary, through military interventions. Hence, the Peace of Vienna (1815) was the most far-reaching diplomatic agreement between the Peace of Westphalia (1648) and the Versailles Treaty that concluded WW I in 1919.[199]

The chief architect behind the European Concert was the conservative Austrian foreign minister Prince Klemens von Metternich (1773-1859). Metternich firmly believed that liberalism, as expressed in revolutionary America and France, was responsible for a generation of war with untold bloodshed and suffering. The threat of liberalism appeared doubly dangerous to him since it generally went with national aspirations. The liberal idea of national self-determination was repellent for Metternich, since it not only threatened the existence of the aristocracy but also threatened to destroy the Austrian Empire (which was a multinational state) and, in extension, revolutionise central Europe.[200] In other words, everything possible was made to keep status quo and repress the liberal and national aspirations characteristic for the age. This was, however, not durable in the long run. The American and French revolutions transformed politics within states. Demands on political and national emancipation grew over time, and eventually liberalism and nationalism, often in combination, became powerful political powers. Sovereignty was gradually moved from the monarch and lodged into institutions, which claimed to represent the people; states were transformed from *territorial-states* to *nation-states*. The changes that occurred within states, in turn, altered the political relations among states. Great changes also occurred in the economic realm. The productive forces, Torbjørn Knutsen writes, were harnessed to the engine of mass mobilisation and thereby transformed into political powers. The economic changes developed to a veritable revolution in their own right — the industrial revolution. They altered the structures and relations within states as well as among states. It started in England and eventually spread to the rest of Europe. By new means of production came new means of destruction. The first country to adapt its armed forces into the new industrial culture was Prussia.[201]

Pre-revolutionary scholars were influenced by visions of natural order, symmetry and balance, while the post-revolutionary mind was thrust into a disorderly world, dominated by change rather than constancy. In spite if this turbulence, new scientific discoveries, applications and methods gave rise to a genuine confidence. Scholars insisted that scientific methods could be transferred from the study of nature to the study of society, and just as the political and economic revolutions coincided and intertwined during the end of the eighteenth century, the growth of the new social sciences and the evolution of coherent political ideologies converged throughout the nineteenth century.[202]

Three major secular systems of thought (read ideologies) were developed during the nineteenth century, namely: Liberalism, Conservatism, and Socialism. The principle ideas of Liberalism are liberty and equality. The Government, Liberals argued, should not, or as little as possible, interfere in the economy. This economic philosophy is known as the doctrine of *laissez-faire*.[203]

As indicated previously, most nineteenth century Liberals were also nationalists. Nationalism is a phenomenon of modern European history. It did not exist, as we know from earlier discussions, in any recognisable form in the Middle Ages (or before); mass allegiance to a nation was unknown before the end of the eighteenth century. The modern form of

[199] Robert. R. Palmer and Joel Colton: *Nya tidens världshistoria [A History of the Modern World]*, p. 381.

[200] John P. McKay, et.al.: *A History of World Societies*, pp. 781ff. See also: http://www. aboutvienna.org/ history/wiener_kongress.htm; and, http://killeenroos.com/4/RESULTCV.htm. The sites were visited 2004-10-22.

[201] Torbjørn L. Knutsen: *A History of International Relations Theory*, pp. 146f.

[202] Op.cit., pp. 148.

[203] Robert R. Palmer and Joel Colton: *Nya tidens världshistoria [A History of the Modern World]*, pp. 391ff; and John P. McKay, et.al.: *A History of World Societies*, pp. 782ff.

nationalism received its greatest boost during the French Revolution and the Napoleonic period that followed. National armies were mobilised; people were demanded to speak French; and, rites as well as symbols such as the national flag, the national anthem, and national holidays, were inaugurated. The aim was to overcome people's traditional commitment to church and region. Nationalism spread from France to neighbouring countries, to the rest of Europe, and eventually to the rest of the world.[204] In year 1871 — with the unification of Germany and Italy — the principle of nationalism had triumphed in Western Europe.

Socialism, just as nationalism, began in France. The French (utopian) socialists — like e.g. Henri de Saint-Simon (1760-1825) and Charles Fourier (1772-1837) — noticed that the political revolution in France, the rise of economic laissez-faire, and the emergence of factory industry in England were transforming society profoundly. They were disturbed by these developments since they seemed to foster individualism and splitting the community into fragments, isolated from one another. Hence, they believed that society needed to be reorganised. They believed in economic planning, economic equality, and state control of property. These reformers did not think in terms of revolutions or class struggle. In fact, they were less implicit about how their elaborate idealistic blueprints (of model communities) might be put into practice. That is why they are known as utopian socialists.[205]

In 1848 Karl Marx (1818-1883) and Friedrich Engels (1820-1895) published the *Communist Manifesto*. Marx and Engels were historical materialists and they were convinced that capitalism would be overthrown by class struggle and would be replaced by a new type of socialist society. Marx and Engels advocated political action, or revolution.

> The Communist everywhere support every revolutionary movement against the existing social and political order of things … They openly declare that their ends can be attained only by the forcible overthrow of all existing social conditions. Let the ruling classes tremble at a Communist revolution. The proletarians have nothing to lose but their chains. They have a world to win.[206]

The ideas of Marx and Engels, known as the "scientific socialism" spread across the West after 1850 and replaced the "utopian socialism" of the first half of the century. In the *Communist Manifesto* (1848) is expressed an (new) *internationalist* vision of politics. It holds that a self-aware, challenging, and global working class challenges the capitalist regime, characterised by exploitation and alienation. In the socialism of Marx and Engels, international relations are not seen in terms of sovereign states, but of global classes. It argues that the capitalist economy constitutes a new and truly international system.[207]

The class struggle, between rich and poor (or those who rule and those who are ruled), is, Marx and Engels argued, influenced by the German philosopher Georg Hegel (1770-1831), what drives the evolution of history. The struggle is material, and essentially economic, and it inevitably ends in a revolution that destroys the existing social order and erects a new order in its place.[208]

Karl Marx did not limit himself to theorising and writing but combined intellectual activity with efforts to organise and make workers active throughout his life. He played for example an important role in the establishment of the first international (or the International Workingmen's Association as the formal name was) in 1864. Within this organisation foreign

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[204] L. S. Stavrianos: *The World since 1500: A Global History*, p. 471f.

[205] John P. McKay, et.al.: *A History of World Societies*, pp. 783f.

[206] See Karl Marx and Friedrich Engels: *The Communist Manifesto* (Harmondsworth: Penguin Books, 2002 [1848]).

[207] Op.cit. Cf. Torbjørn L. Knutsen: *A History of International Relations Theory* (1997) p. 155.

[208] Torbjørn L. Knutsen: *A History of International Relations Theory* (1997) pp. 155f.

policy, national defence, and the causes of war were discussed. The recurring arguments were that war was caused by capitalism, and that peace would come with socialism.[209]

The conservative ideology arose very much in response to the dramatic changes that took place in society, political and economic as well as social ones. Conservatism rejected the advocacy of the equal rights of man and denounced the new faith in reason, science, and historical progress, instead it argued in favour of community, traditional social order, and responsibility. The French Revolution, which so inspired the radicals (liberals as well as socialists), haunted the conservatives. Their mission was a defensive one — they wanted to preserve the existing order.[210]

Edmund Burke (1729-1792) laid the foundation for this mission in his today famous book *Reflections on the Revolution in France* (1790). The cornerstones of the conservative ideology were: communalism, traditional authority, social hierarchy, differentiated status, and private property. Conservative thinkers distrust the "masses". Burke believed that only a strong state was able to produce the social stability and political order necessary for human freedom. The government shall maintain domestic societal order. Furthermore, governments must help one another to maintain *world order*. States must coordinate their capabilities and manage their interests. This, Burke argues, should be done within a balance-of-power framework — which he considered to be the main stabilising institution of international relations; the wise management of Europe's balance-of-power preservers interstate order and international peace. This management is facilitated by many factors, such as international law, a set of communal values (like the Christian religion, monarchical principles of government, and a common Roman-law heritage) informing the European states. The two modern notions of state interest and necessity — *raison d'état* — inform the conservative approach to international relations and international law.[211]

Friedrich Gentz (1764-1832) translated Edmund Burke's *Reflections on the Revolution in France* into German. He adopted many of Burke's ideas and worked as secretary and foreign policy adviser to Prince Klemens von Metternich.[212] Hence, the ideas of Burke had political implications; the ideas of Burke, Gentz, and Metternich were influential when it was decided how Europe would be organised after the wars. As we now know, the old order was kept.[213]

Radical concepts of society are almost always accompanied by comparable changes in literature and other arts. The early nineteenth century makes no exception to this rule. This period marked the peak of the so-called *Romantic Movement* (which lasted until the middle of the nineteenth century). "Romanticism" can in part be understood as a revolt against Classicism and the Enlightenment. The movement is elusive. Nevertheless, at the core we find an emphasis on the importance of the role of emotions and fantasy. Emotions were considered to stand above reason, laws, and moral norms. The outlook on mankind was dynamic; the dream, the unconscious, and the intuition was emphasised.[214]

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[209] John P. McKay, et.al. *A History of World Societies*, p. 785; L. S. Stavrianos: *The World since 1500: A Global History*, p.475; and, Torbjørn L. Knutsen: *A History of International Relations Theory* (1997), pp. 158.

[210] Robert R. Palmer and Joel Colton: *Nya tidens världshistoria [A History of the Modern World]*, p. 402.

[211] See Edmund Burke: *Reflection on the Revolution in France* (Harmondsworth: Penguin Books, 1988[1790]).

[212] See Friedrich Gentz: *Fragments upon the Present State of the Political Balance of Europe* (London: M. Peltier, 1806).

[213] The settlement agreed in Vienna in 1815 was not the only available alternative for the future European international society. Broadly speaking, Adam Watson writes, three other ways of organising the European international society (or the *grande république*) were in the minds of statesmen as alternative outcomes of the flux of war at the beginning of the nineteenth century. See his: *The Limits of Independence: Relations Between States in the Modern World*, pp. 20ff.

[214] Robert R. Palmer and Joel Colton: *Nya tidens världshistoria [A History of the Modern World]*, pp. 392f; and, John P. McKay, et.al.: *A History of World Societies*, pp. 786f.

The operation of the (plurilateral) European Concert can be divided into three periods, reaching from prosperity to decline and finally decomposition. The first period, from 1815 to 1848, was a period of peace between the great powers, and repression of social and political revolution. During this period the five great powers came very close to function as a directorate. "By claiming and exercising the right to collective intervention", Adam Watson writes, "the great powers were able to maintain something like a dominion over the fragmented quarter of European society outside their administration".[215] Prince Klemens von Metternich was the most important single statesman of this first period.

The second period, lasting from 1848 to 1871 was a period of increasing popular nationalism, of revolution against the established political order, and (minor) wars of adjustment between the great powers. The year of 1848 is known as the year of revolutions. This year there were revolutions in e.g. France as well as the German and Italian lands. Nationalism, democracy and increasing interest in external affairs, together exercised an increasing influence on the functioning of the European society. The most dangerous threat to the European balance was growing pan-Germanism (and eventually pan-Italianism), but even in the most difficult circumstances the concert continued to function. A series of congresses and conferences, from time to time after a trial of force, achieved compromises acceptable to the five great states as well as others directly concerned.[216] This period is ended by the unification of the Italian land, the so-called *Risorgimento*, in 1870.[217]

The third period, from 1871 to the end of the nineteenth century, was, once again, a period of peace, however, an uneasy peace. Germany was, unified in 1871, now the strongest power on the European continent.[218] Hence, the balance that had maintained and adjusted itself since the congress in Vienna, first in peace and then in minor wars, became fragile. In the meantime, the Industrial revolution and popular nationalism imposed an increasing pressure in Europe. The last thirty years of the century were a period of accelerating economic and territorial expansion outward, away from the pressure at the centre, by the great powers but also some lesser powers. This competitive outward expansion, however, was managed by the concert by agreement.[219]

In the early nineteenth century, the successful revolt of the U.S. was followed by the independence of South America, which at the turn of the century was dominated by Spain and Portugal. By 1830 almost all of Central America, South America, and the Caribbean islands had won independence. The emergence of the U.S. set a limit to European influence and power in the Americas. The Western hemisphere was from now on considered as an American sphere of interest. This new vision was formally proclaimed in the so-called *Monroe Doctrine*, which was expressed during President Monroe's seventh annual message to the Congress, the 2nd of December 1823. The core of the doctrine is that the U.S. would not intervene in European matters. By the same token it could not allow European powers to intervene in the Americas.[220]

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[215] Adam Watson: *The Evolution of International Society*, p. 242.

[216] Op.cit., p. 243ff.

[217] Regarding the unification of the Italian land, see e.g.: http://www.brainyencyclopedia.com/encyclopedia/i/it/italian_unification_1.html. The site was visited 2004-10-25.

[218] Regarding Otto von Bismarck, see John P. McKay, et.al.: *A History of World Societies*, pp. 801ff, especially the map on p. 803.

[219] Adam Watson: *The Evolution of International Society*, p. 248f. See also John P. McKay, et.al.: *A History of World Societies*, Ch. 26, especially pp. 826ff.

[220] Antonio Cassese: *International Law*, p. 26. Fore more information about the independence of Central America, South America, and the Caribbean islands, see P. McKay, et.al.: *A History of World Societies*, pp. 877ff. See also: http://www.fsmitha.com/h3/h39-la.html; and, http://usinfo.state.gov/usa/infousa/facts/democrac/50.htm. The Monroe Doctrine (1823) is available on: http://www.yale.edu/lawweb/avalon/monroe.htm. All sites were visited 2004-10-25. For a more thorough analyse regarding the Monroe Doctrine,

Partly as a consequence of the development in the Americas, the Europeans eventually turned to Africa, while at the same time intensifying their interest in Asia. But, during the six decades that followed the Vienna Congress almost none colonial competition occurred. During the 1870s and 1880s, colonial question was suddenly put forward again. This new development, known as "imperialism", differed economically as well as politically from earlier colonial policies. The old colonialism was based on trade and shipping, the new imperialism was much more thorough. Imperialism was, simply put, political and territorial to its character. The underlying economic idea was neo-mercantile.[221]

Western expansion into Africa and Asia reached its peak between about 1880 and 1914. As late as 1878 European nations controlled less than 10 percent of the African continent, but in 1884 to 1885 the continent was split up among Belgium, Britain, France, Germany, Italy, Portugal, and Spain at the Berlin Conference, and by 1900 almost the whole continent was under their rule. Furthermore, less spectacular than the division of Africa, however, Britain, France, and the Netherlands either appropriated or consolidated their control over Asia.[222] Even the U.S., a state formerly under colonial domination, took part in the colonialist trend and seized power over the Philippines in 1898 as a result of war with Spain (which was concluded by the Peace Treaty of Paris the same year).[223]

Unlike most of Asia and Africa, Japan and China escaped direct foreign rule. China, however, suffered severely from indirect rule, while Japan transformed profoundly, with the Meiji restoration (1868 to 1912), and short thereafter entered the imperialist ranks.[224]

The Islamic civilisation, stretching from West Africa across West Asia all the way to the East Indies and the southern Philippines, competed successfully and continuously with Western Europe for almost a millennium. The Ottoman Empire, as already indicated above, began to decline slowly after reaching its height of development in the sixteenth century. In spite of this, the relation between the Ottomans and the Europeans was still one of roughly equal strength. This situation, however, changed radically during the second half of the eighteenth century. The Ottomans fell behind Western Europe in science, industrial skill, and military technology.[225] Simultaneously, Russia started to develop and expand southward as well as and eastward.[226] During the nineteenth century the Ottoman Empire started to fall apart. The sultanate was abolished in 1922, when Kemal Atatürk seized power. Egypt, a country invaded by Napoleon in 1798 and occupied by the French for three years, became a more or less independent state within the Ottoman Empire thereafter. The country gained formal independence after the dissolution of the Ottoman Empire. But a British consul had *de facto* ruled Egypt since 1883, when British troops occupied the country due to political disturbance in Alexandria. The occupation was said to be temporarily, however, it lasted until 1956.[227]

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see e.g. Ernest R. May: *The Making of the Monroe Doctrine* (Cambridge, Massachusetts: Harvard University Press, 1975).

[221] Robert. R. Palmer and Joel Colton: *Nya tidens världshistoria [A History of the Modern World]*, pp. 135ff.

[222] John P. McKay, et.al.: *A History of World Societies*, pp. 849f. (See especially the map on p. 862); and, Robert R. Palmer and Joel Colton: *Nya tidens världshistoria [A History of the Modern World]*, pp. 157ff. For more information about the Berlin Conference of 1884-1885, see e.g.: http://campus.northpark. edu/history/WebChron/Africa/BerlinConf.html. The concrete result of the conference, the General Act of the 26th of February 1885, can be found on: http://web.jjay.cuny.edu/~jobrien/reference/ob45.html. The sites were visited 2005-04-17.

[223] John P. McKay, et.al.: *A History of World Societies*, p. 850; and Antonio Cassese: *International Law*, p. 26. The Peace Treaty of Paris 1898, can be found on: http://www.yale.edu/lawweb/avalon/diplomacy/spain/ sp1898.htm.

[224] See L. S. Stavrianos: *The World since 1500: A Global History*, Ch. 33.

[225] John P. McKay, et.al.: *A History of World Societies*, pp. 657f.

[226] See L. S. Stavrianos: *The World since 1500: A Global History*, Ch. 26 and pp. 480ff.

[227] Op.cit., pp 586ff; and John P. McKay, et.al.: *A History of World Societies*, pp. 855ff.

The period between the Congresses of Vienna (1815) and Versailles (1919) are also known as *Pax Britannica* — a concept that refers to the peaceful period of British imperialism after the Napoleonic wars, which led to a period of overseas British expansionism. During this period, the British Empire controlled most key naval trade routes and enjoyed unchallenged sea power. Britain dominated overseas markets and favoured a strategy of informal colonialism, controlling markets like China's without direct formal colonial administration. This led to the spread of the English language, the British Imperial system of measures, and rules for commodity markets based on English common law. When colonies had the capacity but not the right to trade directly with each other, challenges to central rule erupted, and new wave of colonialism, known as imperialism, largely arose as a response. *Pax Britannica* was weakened by the breakdown of the continental order established by the Congress of Vienna and the consequent establishment of new nation-states in Italy and Germany after the Franco-Prussian War. The industrialisation of Germany and the United States of America during the latter half of the eighteenth century also contributed to the decline of British industrial supremacy following the 1870s.[228]

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During the nineteenth century the Just War Doctrine was definitely replaced by a balance-of-power system, which until the end of the century was fairly successful in making wars rare. The expense, destructiveness, and long duration of wars as well as the risk of defeat, Peter Malanczuck argues, meant that wars were not fought unless a state could expect to gain a large amount of territory by going to war, But, states sizing to much territory threatened the whole of Europe, since it upset the balance-of-power. Consequently, states were usually deterred from attempting to seize large territories, since they knew that such attempts would, most likely, unite the rest of Europe against them. Hence, the prevention of violence was achieved not by legal means, but by extra-legal factor, such as the balance-of-power. When necessary, the balance-of-power system could be supplemented by legislation in the form of treaties.[229] Within this general framework, the emergence of the U.S. set a limit to European influence and power in the Americas, by proclaiming the Monroe Doctrine, stating that: "the American continents … are henceforth not to be considered as subjects for future colonization by any European power".[230]

The authority of the pluripolar and plurilateral Concert of Europe to impose adequate limits on the freedom of action of its sovereign states steadily weakened, however, as the nineteenth century progressed. The rivalry between the Great Powers expanded. At the end of the nineteenth century, a new path, in order to limit the horrors of war and secure the international peace was tested, namely by using and developing international law.

Nations from around the globe meet two times in so-called peace conferences in The Hague. The first peace conference, convened on the initiative of the Czar of Russia Nicholas II, was held in 1899 and collected 26 countries (including the U.S.). The First Hague convention was signed on the 29th of July 1899 and entered into force on the 4th of September 1900. It consists of four main sections and three additional declarations, including among other things the creation of a permanent court of international arbitration (the PCA). The second conference, held in 1907, collected no less than 44 countries (including most states of Latin America). It was held to expand upon the original Hague Convention, modifying some parts

[228] The discussion regarding *Pax Britannica* is based on material that can be found on: http://www.wordiq.com/definition/Pax_Britannica. The site was visited 2005-04-17. Cf. William C. Olson and A. J. R. Groom: *International Relations Then and Now: Origins and Trends in Interpretation*, pp. 25f.

[229] Peter Malanczuk: *Akehurst's Modern Introduction to International Law*, pp. 307f.

[230] The Monroe Doctrine (1823), quoted in Antonio Cassese: *International Law*, p. 26.

and adding others, with an increased focus on naval warfare. The Second Convention was signed on the 8th of October 1907, and entered into force on the 26th of January 1910. It consisted of thirteen sections, of which twelve were ratified and entered into force.[231] War was still considered a legitimate means in international relations, but the third section of the second Hague Convention required war to be preceded by a formal declaration of war or by an ultimatum containing a conditional declaration of war.

Even before these two conferences, the first international organisations were — due to the rapid technological development during the later half of the nineteenth century — established. The first international governmental organisation established was the International Telecommunication Union (1865). Later on, the Universal Postal Union (1874) and the World Meteorological Organization (1878) was also established. The International Red Cross Committee was established in 1863 as a non-governmental organisation.[232] These organisations still exist and play an important role in current global governance.

The two Hague conferences made historic advances in the development of international law and institutions. The growth of institutions and values that strive to protect civilians, regulate conflict, and ensure human security can be traced to last century's efforts in The Hague. Furthermore, international cooperation grew; the Olympic Games were resumed; a universal language, Esperanto, was introduced; commerce and travel were encouraged. The efforts made, however, were not enough to stop the outbreak of a devastating period of wars in Europe and eventually the rest of the world, starting in 1914 and lasting for more than thirty years.

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[231] For more information regarding the Hague Conferences of 1898 and 1907, see: http://en.wikipedia.org /wiki/Hague_Peace_Conference. The official website of the Permanent Court of International Arbitration (PCA) can be found on http://www.pca-cpa.org. The sites were visited 2005-03-28.
[232] Lars Eriksson, et. al. (eds.): *FN — Globalt Uppdrag: Fakta, Historia, Framtid [The UN — Global Mission: Facts, History, Future]* (Stockholm: SNS Förlag and Svenska FN-förbundet 1995), pp. 9f.

The Great Wars

Eric Hobsbawn has suggested that the twentieth century began only began in 1914, with a cataclysmic war which swept away the nineteenth century status quo, whereby a handful of states dominated the affairs of the world.[233] As we know from the previous discussion, Europe had before WW I not experienced a major war involving most of its dominant powers for a century. Furthermore, the world had never before experienced a war that enmeshed so many peoples and countries, WW I was a world war. It was also a total war, whole populations were mobilised, whether as soldiers at the frontline, in the trenches, or as workers on the home front. Both men and women were included in the war efforts.[234] The main principle of the time was that if the worst came to the worst, war was still an acceptable way of settling a dispute. Increasingly, the question asked in the chancelleries of Europe was not *if*, but *when* there will be a war.[235] War was still seen, as an inevitable and permanent feature of the interstate system, in the way friction was an inevitable feature of a mechanical system.[236]

The consequences of the First World War were enormous. After more than four years of combating, politicians and diplomats met at Versailles in 1919 to negotiate a peace treaty that dealt with the immediate post-war issues as well as how to make war impossible in the future. The popular opinion of the time was: "never again". Yet only twenty years later, in 1939, a second world war broke out, even more devastating and global than the first.

The world of 1945 was almost unrecognisable from that before 1914. The most significant global transformation was Europe's collapse as the pre-eminent continent; the "European Age" had definitely passed. The Europe of 1919 was different from that of 1914 just as the Europe of 1815 had been different from that of 1789. World War I stands out as a historic turning point.[237] The Second World War was essentially a continuation of the First. The world was, figuratively speaking, undergoing a *second* "Thirty Year's War", between 1914 and 1945, whose roots stretched back to the 1870s.[238]

In the Versailles Treaty, which terminated WW I, is included an article (Art. 231) specifically stating that the war was caused by the aggression of Germany and her allies.[239] Indeed, Europe's long-term instability can be traced back to the creation of the Second German Reich in 1871, which disrupted the balance-of-power of Europe thanks to rapidly achieved great power status by the creation of an overseas empire. This ambition of Germany was not looked upon with approval by the other great powers. Hence, imperial disputes was one, but not the

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[233] Eric Hobsbawn: *Age of Extremes: The Short Twentieth Century, 1914-1991* (London: Michael Joseph, 1994).

[234] Richard Overy: "Inledning [Introduction]", in H. P. Willmott: *Första Världskriget [WW I]* (Stockholm: Albert Bonniers Förlag, 2004).

[235] William Woodruff: *A Concise History of the Modern World: 1500 to the Present. A Guide to World Affairs* (Houndmills: Palgrave, 2002), p. 160.

[236] Stephen C. Neff: "A Short History of International Law", in Malcolm D. Evans (ed.): *International Law* (Oxford: Oxford University Press, 2003), p. 43.

[237] Susan L. Carruthers: "International History 1900-1945", in John Baylis and Steve Smith (eds.): *The Globalization of World Politics: An Introduction to International Relations* (Oxford: Oxford University Press, 2001), pp. 52f.

[238] Op.cit. p. 53; and, L. S. Stavrianos: *The World since 1500: A Global History*, p. 567.

[239] See: http://www1.ushmm.org:80/wlc/article.php?lang=en&ModuleId=10005425. The Versailles Treaty, which contains more than 400 articles, can be found in its entirety on the Internet, see: http://www.yale.edu/lawweb/avalon/imt/menu.htm. A good summary of the Treaty can be fond on: http://www.u-s-history.com/pages/h1334.html. Art. 231 reads as follow: "The Allied and Associated Governments affirm and Germany accepts the responsibility of Germany and her allies for causing all the loss and damage to which the Allied and Associated Governments and their nationals have been subjected as a consequence of the war imposed upon them by the aggression of Germany and her allies". The sites were visited 2005-04-17.

only contributing factor to the outbreak of the WW I. Besides the German problem another main source of instability in the beginning of the twentieth century was the so-called "Eastern Question", which arose from the slow collapse of the Ottoman Empire and the rise of irreconcilable nationalist aspirations. Other contributing factors to the war were economic and colonial rivalries, the existence of conflicting alliance systems — the *Triple Alliance* of 1882, made up by Germany, Italy and Austria-Hungary, and the *Triple Entente*, finally signed in 1907 by Britain, France and Russia — and irreversible military mobilization planes.[240]

The immediate trigging factor of the war, however, was the assassination of Archduke Frans Ferdinand and his wife in Sarajevo (capital of Bosnia, which was annexed to Austria-Hungary) on the 28th of June 1914 by Gavrillo Princip, a Bosnian Serb nationalist student.[241] The shoots in Sarajevo were the lightning sparks to the powder keg that Europe was in the beginning of the twentieth century.

WW I lasted for four years and three months, involved thirty sovereign states, overthrow four empires (the German, the Austrian, the Russian, and the Ottoman ones), gave birth to seven new nations, and took approximately 8.5 million combatant lives and 10 million non-combatant lives. It cost approximately 180 billion American dollars in direct costs and 150 billion American dollars in indirect costs.[242]

Separate peace treaties were signed with each of the Central Powers (Germany, Austria, Hungary, Bulgaria, and Turkey) between 1919 and 1920.[243] The most famous of the treaties is the, above mentioned, Versailles Treaty of the 28th of June 1919, with Germany. Three features of this overall settlements are, according to L. S. Stavrianos, significant: the establishment of the League of Nations, the application of the principle of self-determination in Europe, and the failure to apply the very same principle outside Europe.[244]

When the Peace of Westphalia was signed in 1648, the modern (European) society of states came, as we know, into being. Westphalia brought an end to the Thirty Year's War, the most savage struggle in European history until then, in which an estimated 10 million people may have died. The treaty of Westphalia represented an entirely new kind of diplomatic agreement and helped to make possible peaceful relations on an international scale. It was the model for emerging global "organisations", like The Concert of Europe and the League of Nations.[245]

The advent of the First World War broke down the Concert of Europe and irrevocably shattered the balance-of-power in Europe that so far had protected the United States of America for over a century from threats from abroad. Under President Woodrow Wilson (professor in Politics and a member of the liberal "American Peace Society"), the United States revised its earlier thinking and reached the conclusion that it must abandon neutrality and intervene overseas to save it own democracy and commercial relations. Initially Wilson argued that Americas' national interest was best served by isolation — the United States hereby, it was believed, could act as a "neutral" conciliator in Europe's traumatic conflict. This idea, however, proved to be unsuccessful. From a Wilsonian point of view, the situation became even more problematic in May 1916, when the Allies (Britain, France, Russia, and Italy) gathered at a conference and drafted a blueprint for a new post-war order. The post-war programme was

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[240] Susan L. Carruthers: "International History 1900-1945", in John Baylis and Steve Smith (eds.): *The Globalization of World Politics: An Introduction to International Relations*, p. 54; and L. S. Stavrianos: *The World since 1500: A Global History*, pp. 567ff.

[241] William Woodruff: *A Concise History of the Modern World: 1500 to the Present. A Guide to World Affairs*, p. 153.

[242] L. S. Stavrianos: *The World since 1500: A Global History*, p. 581.

[243] The St. Germain Treaty was signed with Austria (on the 10th of September, 1919); the Trianon Treaty was signed with Hungary (on the 22nd of March 1919); the Neuilly Treaty with Bulgaria (on the 27th of November 1919); and, the Sèvres Treaty with Turkey (on the 20th of August, 1920).

[244] L. S. Stavrianos: *The World since 1500: A Global History*, p. 581.

[245] Stephen C. Schlesinger: *Act of Creation: The Founding of the United Nations — A Story of Superpowers, Secret Agents, Wartime Allies and Enemies, and Their Quest for a Peaceful World* (Boulder: Westview Press, 2003), pp. 17f.

based upon the knowledge that after the war the U.S. would emerge as the worlds' strongest economic power and therefore contained the use of high tariffs, government subsidies and controlled markets to protect Europe from the effects of that power. To be brief, the post-war order was defined without U.S. participation, and even worse, in direct contradiction to America's liberal national interests. Partly because of this situation, Wilson changed his mind about isolation and declared war on Germany on the 2nd of April 1917. After this strategic step, America was in the position of influencing the plans for the post-war world order. Wilson's idea of what it should be like was outlined in his "Fourteen Points for Peace" — including, among many other things, the establishment of a League of Nations (a permanent international organisation). The basis of the League was the Covenant, which was included in the Treaty of Versailles and the other peace treaties. The Covenant consisted of 26 articles in which all nations, without giving up their sovereignty, should meet and discuss and solve disputes (without the use of violence) and a sustainable peace based on "collective security".[246] President Wilson's idealistic programme got mixed reviews in Europe. In spite of this, some of his ideas became included in the Versailles Peace Treaty, which was signed on the 28th of June 1919.[247] Germany was not allowed to participate in the negotiations, but only to take part in the treaty *post facto*. The Russians, who had gone through a Marxist revolution, did not participate either. The former allied was now seen as an international outcast.

Wilson believed that there was something perturbing with earlier peace conferences. The diplomacy of the old days was accused for leading to war, since they were based on power politics and balance-of-power. After the defeat of the Central Powers by the allied democracies there was hope for a new sort of agreement, based on consent and mutual respect. President Wilson, however, had some difficulties in convincing the Allied governments to accept his Fourteen Points. The French wanted the Germans to pay a big war indemnity and the British vetoed the ideas about absolute freedom of navigation upon the seas, outside territorial waters, alike in peace and war. The Germans, who searched for armistice, believed that peace would be settled in accordance with the Wilsonian programme and that the French and British demands could be modified.[248] They were to be profoundly disappointed.

Wilson fought hard for the establishment of the League of Nations. Only few European leaders, however, had confidence in such an organisation, but eventually they gave in to Wilson's line of policy. In return, Wilson gave in to the demands of the UK, France, Italy, and Japan. Hence, Wilson compromised his Fourteen Points. He believed that the peace treaty could be corrected retrospectively in peace and quiet by international negotiations.[249]

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[246] See Torbjørn L. Knutsen: *A History of International Relations Theory* (1997), pp 203ff.; and, L. S. Stavrianos: *The World since 1500: A Global History*, pp. 580ff. Articles 1 through 7 of the Covenant concerned organisation, providing for an assembly, composed of all member nations; a council, composed of the great powers (originally UK, France, Italy, and Japan, later also Germany and the USSR) and of four other, non-permanent members; and a secretariat. Both the assembly and the council were empowered to discuss "any matter within the sphere of action of the League or affecting the peace of the world." In both the assembly and the council unanimous decisions were required. Articles 8 and 9 recognised the need for disarmament and set up military commissions. Article 10 was an attempt to guarantee the territorial integrity and political independence of member states against aggression. Articles 11 through 17 provided for the establishment of the Permanent Court of International Justice, for arbitration and conciliation, and for sanctions against aggressors. The rest of the articles dealt with treaties, colonial mandates, and international cooperation in humanitarian enterprises, and amendments to the Covenant.

[247] See L. S. Stavrianos: *The World since 1500: A Global History*, pp. 580ff; Torbjørn L. Knutsen: A History of International Relations Theory, pp. 203ff. President Woodrow Wilson's speech to the Congress on the 8th of January 1918 is available on: http://www.lib.byu.edu/~rdh/wwi/1918/14points.html. The site was visited 2004-10-26.

[248] See Robert. R. Palmer and Joel. Colton: *Nya tidens världshistoria [A History of the Modern World]*, p. 207f.

[249] Op.cit, p. 208.

When Germany finally, in May 1919, was informed of the treaty, they refused to sign it, especially due to the above mentioned war guilt clause (Art. 231 of the Versailles Treaty). Eventually representatives of the German Social Democratic dominated government did it. Hereby, the so-called "stab in the back" theory was developed.[250] Germany lost big territories on the European continent and became a geographically divided state (thanks to the establishment of the Polish corridor). Germany also lost all its colonies, which became mandated territories under the League of Nations, administrated by the UK and France. Furthermore, Germany was forced to disarm extensively. Hence the Wilsonian vision of general disarmament was applied only on Germany.[251]

At Versailles, William Woodruff writes, nationalism, vested interests, chicanery and hatred eventually triumphed over President Wilson's idealistic vision of a world governed by the rule of law. Wilson retreated to his isolated homeland, which refused to ratify the treaty or become a member of the newly founded League of Nations. The American absence undisputedly weakened the League from the very beginning. Of Wilson's original vision, only the League of Nations remained. In fact, hatred and revenge ran through the whole treaty. Wilson's had hoped that a system of collective security would replace a system of special alliances.[252]

Hence, no attempt was made to establish the League of Nations as a world government with sovereign power over its member states. The main principle in the Versailles Treaty was the acknowledgement of the right of national self-determination of peoples, at least in Europe. Recourse to force was not generally prohibited, except for a number of limited cases. Instead, Articles 12, 13 and 15 of the Covenant of the League of Nations subjected resort to war to a "cooling-of-period" of three months, just as in the peace settlement of Westphalia. If a dispute was submitted to the League Council, the Permanent Court of International Justice (PCIJ), set up in 1921, or an arbitral tribunal (like e.g. the PCA), war could only be resorted to three months after the arbitral or judicial decision, or the Council Report. Accordingly, there was a general prohibition on wars initiated before that delay in time or waged towards a state that was complying with an arbitral award or a judgment from the PCIJ, or with a report adopted unanimously by the Council of the League.[253]

The League system had, mildly put, a number of major flaws. The most obvious was that there was no ban on resort to the use of "force short of war" (i.e. military clashes without any formal declarations of war) in the Covenant, which induced states to engage in war operations claiming that they were only using coercion short of war and was therefore not breaking the Covenant. Furthermore, no collective system was set up for enforcing law against a state that broke the procedural prohibitions of the Covenant mentioned above. The Assembly or Council of the League had no power to send in troops against an aggressive state, they could merely recommend the use of force to member states. Hence, there was no provision for an institutionalised enforcement procedure, no monopoly of using force granted by the League organs or, for that matter, an international army for the maintenance of peace and set up.

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[250] Bruce Patterson writes regarding the "stab in the back" theory: "According to the theory, the German soldiers stretched thin along the Eastern and Western Fronts hadn't lost the Great War. No, the soldiers in the trenches — the flower of Germany's youth — had been sold out by the weak-kneed, spineless politicians back home. According to the 'stab in the back' theory, the generals in the field had been hamstrung by political indecision in Berlin, while German foot soldiers were forced to fight with one hand tied behind their backs due to the squeamishness of the civilian leadership. Had the full force of the German Imperial Army been unleashed, the theory went, they would have been invincible". See his "Vets as Stooges"(2004). The article is available on: http://www.theava.com/04/0811-stooges.html. The site was visited 2005-03-25.

[251] See: "Results of the First World War". The article is available on: http://www.thecorner.org/hists/total/wwresult.htm. The site was visited 2005-03-25.

[252] William Woodruff: *A Concise History of the Modern World: 1500 to the Present. A Guide to World Affairs*, p. 165.

[253] Antonio Cassese: *International Law*, p. 32f.

Accordingly, the customary international rules authorising war remained unaffected as far as third states were concerned.[254]

Differences between member states, lack of cooperation, the fact that the United States never joined the League, which therefore became a political instrument of the UK and France, along with the just mentioned organisational deficiencies; all this taken together account for the League's failure to bring an end to war and aggression in international relations.[255]

The 1920s was, however, for people in America and Europe an era of peace and settlement as well as of recovery and joy after the horrors of WW I. The Dawes plan, an agreement concerning reparations payments and loans to Germany, and the Locarno Pact, which among other things included Germany in the League of Nations as a permanent Council member, were signed in 1924 and 1925, respectively.[256] Optimism spread. In 1928 the Pact of Paris on the Banning of War (also known as the Briand-Kellog Pact) — in which the states signing foreswore any resort to war as means of national policy — was signed by 65 countries.[257] The practical effect of this initiative was, however, limited. For one thing, self-defence actions, a potentially large loophole, were permitted. Furthermore, there was no provision for an enforcement mechanism.[258]

Since the Industrial Revolution, which began in the UK in the 1780s, global capitalist economy has been developing, with a continuously expanding level of world trade. However, WW I disrupted this development, with a profound negative impact on the global economic system. The problems following were initially masked by the vibrancy of the American economy in the 1920s. But, in 1929, the Wall Street stock market crash induced a world depression. Depressions in many countries around the world resulted in extremist political movements gaining strength, especially in Japan, Italy, Germany, but also elsewhere.[259]

Japan underwent, from 1868 and onwards, a rapid period of industrialisation and modernisation that had thorough societal consequences, not at least regarding the development of an aggressive nationalism. Soon imperialistic inclinations were developed and Japan began to expand into Northern China. During WW I Japan fought against Germany, but emerged from the war similarly dissatisfied with the post-war settlement. Between 1931 and 1933 the Japanese consolidated their hold over Manchuria by establishing the vassal state Manchuguo. The League of Nations did very little in response to this Japanese act of aggression. In 1931 the U.S. announced the so-called Stimson Doctrine of 1931; it held, in the wake of the Japan's occupation of Manchuria that any situation brought about by aggression, would not be accorded legal recognition by the U.S. The material impact of the doctrine was not great. It had most likely, however, some precedential value, since the UN GA endorsed it as a general principle in 1970.[260] By 1937 Japan was at war with China. Relations with the U.S. worsened and eventually lead to Japans attack on Pearl Harbor in 1941.[261]

Italy of the early 1920s had behind it only two generations of national independence and unity. The domestic political situation was instable, so was the economic. Ready to exploit this situation was the former socialist Benito Mussolini (1883-1945). In 1919 he formed his first combat troops and organised the right-wing extremist new Fascist Party. In the early 1920 he

[254] Op.cit., p. 33.

[255] Ibid.

[256] For more information regarding the Dawes plan of 1924, see: http://www.theglobalsite.ac.uk/ atlanticrulingclass/3.htm; and, for more information regarding the Locarno Treaty of 1925, see e.g.: http://www.factbites.com/topics/Locarno-Pact. The Treaty is available on: http://www.mtholyoke.edu/ acad/intrel/locarno.htm. The sites were visited 2005-03-28.

[257] Antonio Cassese: *International Law*, p. 33.

[258] Ibid.

[259] Susan L. Carruthers: "International History 1900-1945", pp. 60ff.

[260] Stephen C. Neff: "A Short History of International Law", p. 52f.

[261] Susan L. Carruthers: "International History 1900-1945", pp. 63ff.

forged rapidly ahead, supported industrialists, landowners, and other members of the propertied classes, who were afraid of a social(ist) revolution. In the fall of 1922, Mussolini prepared for a coup d'état. Prime minister Luigi Facta demanded that King Victor Emmanuel should proclaim martial law. The King refused and called on Mussolini to form a government, which he did. In 1926 Mussolini, also called *Il Duce*, disbanded all the old political parties and transformed Italy into a one-party state, characterised by e.g. a personality cult around *Il Duce*, corporatism and elaborate public work programs designed to erase unemployment. Fascist precepts also had impact on the Italian foreign policy. Violence and struggle, within society and between states, was glorified as natural and heroic. War was the considered as the ultimate test of a state's maturity and position in the international hierarchy. Mussolini wanted, in brief, to expand his new "Roman Empire" into North Africa; if necessary by war. The obvious target was Abyssinia, one of the last independent states in Africa. In 1935 the country was conquered by the Italians and turned into a colony.[262]

Adolf Hitler (1889-1945), born in Austria, rose to power in Germany during the 1920s and early 1930s at a time of social, political, and economic upheaval following in the wake of the Great Depression. He failed to take power by force in 1923 in the so-called *Munich Putsch* and was imprisoned. In 1933 he eventually won power, much thanks to the severe demands on Germany decided in the Versailles Treaty, by democratic means. Once in power, he eliminated all opposition and launched an ambitious program of world domination and elimination of the Jews, paralleling ideas he had advanced in his book, *Mein Kampf*, written in prison.[263]

The guiding and unique concepts of National Socialism were space (*Lebensraum*) and race, the territorial expansion of the superior German race. During the latter half of the 1930s Germany started to regain its economic strength. Then Hitler started to form alliances with Italy (Pact of Steel, 1939), Japan (also signed by Italy, this pact is known as the Tripartite pact, 1940) as well as the USSR (the Molotov-Ribbentrop Pact, 1939) and began to realise his expansive international politics, with the ultimate aim of creating "Neuropa" (i.e. a unified Europe under German rule). The divided, uncertain, and pacific leaders of the Western democracies, who sincerely believed that it would be possible to negotiate and buy Hitler off, facilitated this expansion.[264]

Confronted with numerous international crises — in Manchuria, Abyssinia, and Europe — politicians in Britain and France adopted a policy of appeasement. This policy was, however, abandoned when Germany occupied Prague in March 1939 and the UK and France declared war on Germany once it invaded Poland in September 1939. Shortly the war developed into a world war, the second in only twenty years.

To summarise, Europe was effectively lulled into a false sense of security by 1929 as the politicians of Europe had made it plain that war was no longer an option in solving disputes and that previous enemies were now friends. This new Europe relied on nations being at peace and harmony with one another. The stability of Germany was shattered by the Wall Street Crash of October 1929 and the nationalists, who had spent 1925 to 1929 in relative obscurity, rose to the political surface once again. They had no intention of accepting either Versailles or the Locarno treaties. The League's weaknesses in this decade also become apparent. The League could only function successfully, if the politicians of Europe allowed it to do so. Hitler and the Nazis were never going to give the League a chance once they had gained power.

The Second World War, like the First, began as a European conflict precipitated by the issue of minorities in Eastern Europe. Between 1939 and 1941 the military campaigns were

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[262] L. S. Stavrianos: *The World since 1500: A Global History*, p. 608ff; and Susan L. Carruthers: "International History 1900-1945", pp. 67f.

[263] See Adolf Hitler: *Mein Kampf* (translated by Ralph Manheim) (Wilmington, Massachusetts: Mariner Books, [1923]1998).

[264] See e.g. Frank McDonough: *Hitler, Chamberlain and Appeasement* (Cambridge: Cambridge University Press, 2002).

waged on European battlefields. Japan's attack on Pearl Harbor transformed the war into a global struggle just as the American intervention in 1917 had transformed the First World War.

During the most part of 1942, the Axis Powers — Germany, Italy, and Japan — were victorious almost everywhere; in Russia, North Africa, and the Pacific. The success in field turned, however, in late 1942, with the Russian victory at Stalingrad, the British breakthrough in Egypt, and the Allied — or, as the formal name was, the *United Nations* — landings in French North Africa. Short thereafter, Allied forces landed in Italy. Mussolini fell in 1943. The same year the Japanese fleet in the Pacific was defeated and Germany suffered heavy aerial bombardments. Europe was eventually liberated in 1944 and 1945, primarily by the Read Army, advancing from the east, and by Anglo-American forces, advancing from the west. The Allies entered Rome the 5th of June 1944. Around a year later, on the 7th of May 1945, Germany surrendered unconditionally to the Allies. In August 1945 the U.S. dropped two atomic bombs on Japan, one at Hiroshima and one at Nagasaki, and Japan finally capitulated on the 14th of August 1945. Hereby, the Second World War — a war much more destructive than WW I — was finally brought to an end. The result of the war was 50 million casualties and massive material destruction.[265]

The Second World War completed the undermining of Europe's global hegemony that was started during the First World War. Although three out of the five great powers of the time — the USSR, Britain, and France — were European, the Eurocentric international society, which had prevailed since the sixteenth century, was at an end. A bipolar world superseded the earlier multipolar world of nineteenth century geopolitics. The declaration of principles in the Atlantic Charter, agreed upon in 1941, promising self-determination and self-government for all, eventually also heralded the end of European colonialism.[266]

During the war years, the Western powers and the USSR presented a common front against the Axis powers. But as the war neared its end, it became obvious that the cooperation, forced by mutual danger, began to falter. The Allies were more and more inclined to sacrifice unity for what they considered to be their post-war national interests.[267] This became obvious when Churchill, Roosevelt, and Stalin met at Yalta for their second out of totally three wartime conferences (the first was held in Teheran and the third in Potsdam). Most of the Yalta conference had to do with disagreements regarding the newly liberated countries in Eastern Europe.[268] Despite seeds of discord at Yalta, the conference was generally interpreted as the climax of the wartime cooperation of the Allies. Cooperation was shown again with the organisation of the United Nations (UN). The final charter of the organisation was signed by the representatives of fifty-one nations at the conclusion of a conference held in San Francisco from April to June 1945. By this, the war was ended and the ground for a new world order was established. On the 8th of August 1945 the Agreement on the International Military Tribunal for the Punishment of War Criminals was signed. Hereby, an important step towards punishing the ones responsible for the war was also taken. The first session of the Tribunal was held in Berlin on the 18th of October 1945.[269]

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[265] L. S. Stavrianos: *The World since 1500: A Global History*, p. 656.

[266] Ibid.

[267] L. S. Stavrianos: *The World since 1500: A Global History*, pp. 680ff.

[268] See Stephen C. Schlesinger: *Act of Creation: The Founding of the United Nations — A Story of Superpowers, Secret Agents, Wartime Allies and Enemies, and Their Quest for a Peaceful World*, Ch. 4; and, John W. Young and John Kent: *International Relations Since 1945: A Global History* (Oxford: Oxford University Press, 2004), pp. 51ff.

[269] Antonio Cassese: *International Law*, p. 35.

Europe was not so much suffering "A Twenty Year's Crisis" [Edward Hallet Carr's description of the period 1919-1939] as undergoing a "Thirty-Year War", Susan L. Carruthers writes. Europe's long-term instability can be traced back to the creation of the unified Germany in 1871, which disrupted the balance-of-power in Europe. The European powers clashed over imperial issues as Germany sought colonies and markets in the late nineteenth century. A number of European empires were in state of collapse, leaving the question of what territorial and constitutional arrangements that would replace them when they finally disintegrated. At the same time, nationalism was growing almost everywhere, not at least in the Balkans and Central Europe. Hence, a combination of imperial and nationalist, but also economic, tension ultimately resulted in WW I.

The unprecedented suffering of WW I caused a revolutionary change in attitudes towards violence and war. Today people are used to consider war as an appalling evil and it might be hard to understand that during the eighteenth and nineteenth centuries most people understood war in the same way as they regarded a "hard winter"; uncomfortable indeed, but part of the settled order of things. All this changed after WW I. The law, however, took some time to catch up with the public opinion. Accordingly, the Covenant of the League of Nations did not prohibited war altogether. Article 12 states that:

> The Members of the League agree that if there should arise between them any dispute likely to lead to a rupture, they will submit the matter either to arbitration or to inquiry by the Council, and they agree in no case to resort to war until three months after the award by the arbitrators or the report by the Council. In any case under this Article the award of the arbitrators shall be made within a reasonable time, and the report of the Council shall be made within six months after the submission of the dispute.[270]

During the 1920s various attempts various efforts were made to fill the gaps in the Covenant — i.e. to transform the partial prohibition of war found in the covenant to a complete prohibition of war. The various efforts made culminated in the Kellogg-Briand Pact (of 1928), which provided:

> The High Contracting Parties solemnly declare in the names of their respective peoples that they condemn recourse to war for the solution of international controversies, and renounce it, as an instrument of national policy in their relations with one another.
> The High Contracting Parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means.[271]

But, the Kellogg-Briand Pact does not mark a general acceptance of the prohibition of the use of force in an absolute sense. For such a general acceptance another world war was needed.

In the long run, three consequences of WW II were to dominate international relations of the next fifty years. First, the U.S. and the USSR emerged as two superpowers. Second, the European overseas empires, in Africa, the Middle East, and Asia were so severely shaken that they were largely to disappear in the course of the next two decades. Third, the two atomic bombs dropped on Hiroshima and Nagasaki in August 1945, which brought WW II to an end, brought a totally new element into the conduct of international relations.[272] The atomic bomb,

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[270] Art. 12, The Covenant of the League of Nations, 1919. The Covenant is available on: http://www. yale.edu/lawweb/avalon/imt/parti.htm. The site was visited 2005-03-28.

[271] The Kellogg-Briand Pact. The Pact is available on: http://www.yale.edu/lawweb/avalon/ imt/kbpact.htm. The site was visited 2005-03-28.

[272] P. M. H. Bell: *The World Since 1945: An International History* (London: Arnold, 2001), p. 31; and Susan L. Carruthers: "International History 1900-1945", p. 53, Box 3.2.

the famous physicist Albert Einstein remarked, "changed everything except our way of thinking".[273]

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[273] Albert Einstein, quoted in Richard Falk: *The Great War on Terror* (Gloucestershire: Arris Books, 2003), p. 185.

From Western to Global International Society

The most obvious division in the world after the end of the Second World War was not, P. M. H. Bell writes, between the East and West, communism or capitalism, or between imperialists and people in the colonies, but simply between the victors and the vanquished. For a short time, the victors, especially the U.S. and the USSR but also the UK, France and China, had the opportunity to remake the world — simply put, to frame the (future) world order.[274]

For more than two centuries, up to the end of WW I, European states had dominated world politics, evolving, as we have seen, a system of conducting international relations by means of balance-of-power and a series of great treaties which had established a European and world order: Westphalia (1648), Utrecht (1713), Vienna (1815), and Versailles (1919). In 1919 this era was drawing to an end, with the U.S. playing a powerful as well as new role at the Paris Peace Conference. In 1945 it had come to a definite end. There were no longer five or six European great powers, more or less equal in weight and authority, able to balance one another, controlling the continent and the outside world. Instead, two superpowers — the U.S. and the USSR — dominated the post-WW II scene. Neither was fully European. The indisputably European powers — the UK, France, Germany, and Italy — were in decline or eclipse. To be brief, the old European system of states could no longer regulate its own continent, still less the rest of the world.[275] But what was to replace it?

During the war, President Roosevelt engaged himself in creating a new world organisation to succeed the old League of Nations. On the 1st of January 1942, in Washington, Roosevelt, Churchill, and the Ambassadors of the USSR and China, signed the *United Nations Declaration*, which pledge the signatories to employ all their resources to secure total victory, and not to make a separate peace. The document also created the foundation for a new world organisation. The organisation became baptised after the declaration. The plan for the organisation — the *United Nations* — was elaborated at a conference of Foreign Ministers at Moscow in October 1943 as well as the three-power summit in Teheran in November the same year. Additional conferences were held at Dumbarton Oaks (the U.S.), and Yalta in 1944 and 1945, respectively. At the San Francisco Conference (April to June, 1945) the final draft of the UN Charter was drafted. Representatives of 51 states signed the Charter on the 26th of June 1945. It entered into force ton he 24th of October the same year.[276]

The founding of the UN was a critical step in the creation of a new, post-war, world order. In the past, wars had never been of worldwide magnitude. Nor had states ever possessed the means of destruction capable of annihilating mankind. Therefore, peace was now the principal goal of the international society. Peace was considered the fundamental purpose of all states, a purpose to which all other purposes — including respect for international law and promotion of justice — ought to be subordinated. When the framers of the UN Charter upgraded peace to such high rank, they did not, Antonio Cassese argues, naïvely pursue the goal of permanent and universal peace, on the contrary. The framers were aware that international friction and armed conflicts between states not would disappear by some legislative decree. They more realistically set about to construct a system that was designed to make armed conflicts exceptional events, to be controlled and terminated by means of international institutionalised

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[274] P. M. H. Bell: *The World Since 1945: An International History*, p. 33.

[275] Op.cit., p. 40; and Len Scott: "International History 1945-1990", in John Baylis and Steve Smith (eds.): *The Globalization of World Politics: An Introduction to International Relations* (Oxford: Oxford University Press, 2001), p. 75.

[276] P. M. H. Bell: *The World Since 1945: An International History*, p. 40; and, Lars Eriksson, et. al. (eds.): *FN — Globalt Uppdrag: Fakta, Historia, Framtid [The UN — Global Mission: Facts, History, Future]*, pp. 11f. and 67.

cooperation. To be brief, the designers of the UN aimed at achieving a condition of things where the absence of violence in international relations was to be a fairly normal condition.[277]

Besides preventing war by means of collective security, the fundamental aim that the League of Nations had failed to achieve, the aim of the organisation was also to promote peace by fostering international cooperation in economic and social affairs as well as in culture and thought, and to promote respect for human rights and universal freedoms for all.[278] To achieve these purposes, the UN comprised six main bodies: The GA, the Secretariat, the ICJ, the SC, the Economic and Social Council (ECOSOC) and the Trusteeship Council.[279]

The GA consists of representatives of all member states. The chief ideas are one country, one vote, and meetings on an annual base. The GA is consultative, not determinative. But, the number of votes in the GA can be seen as an indicator of the existence of *opinio juris* or not. The Secretariat is the administrative body of UN, headed by a Secretary-General (SG), appointed by the GA for a five-year time. The ICJ is the principal judicial organ of the UN. The court shall function in accordance with the Statute of the ICJ (1945). The major goals of the Trusteeship Council were to promote the advancement of the inhabitants of Trust Territories and their progressive development towards self-government or independence. The ECOSOC is intended to coordinate the economic and social work of the UN and the UN family of organisations. It also consults with non-governmental organisations, thereby maintaining a vital link between the UN and civil society. The aims of the Trusteeship System have today been fulfilled to such an extent that all Trust Territories have attained self-government or independence, either as separate states or by joining neighbouring independent countries.[280]

The heart of the UN, however, is the SC, where it was thought that the victorious powers from WW II would continue their wartime alliance (in perpetuity) as a collective wall against future aggressors.[281] Hence, the UN marked something of a return to the post-1815 system of great power dominance. This time, however, with a more extensive geographic scope. The special status of the five major powers, the principal victors of the war, is formally reflected by their possession of permanent seats in the SC, together with the power of veto over all its decisions.[282] Thus, the system is plurilateral, not multilateral.

The main innovation in the UN Charter was the attempt to introduce a comprehensive ban on the use of force (Article 2[4]), with the only exception of the right of states to individual and collective self-defence, in Article 51. Hence, the UN Charter went much further than did the League of Nations, the Concert of Europe, and the Peace of Westphalia in restricting violence. The Charter does not only contain an outright prohibition against war as such, but also against the use of force (read violence), including the threat to use force, in general — thereby encompassing war, properly speaking, as well as measures short of war, like e.g. armed reprisals.[283] Hence, regarding action against aggressors the UN Charter is much bolder than earlier agreements had been, since it provides not only for economic and diplomatic sanctions

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[277] Antonio Cassese: *International Law*, p. 36. For a thorough discussion regarding the creation of the UN, see Stephen C. Schlesinger: *Act of Creation: The Founding of the United Nations — A Story of Superpowers, Secret Agents, Wartime Allies and Enemies, and Their Quest for a Peaceful World.*

[278] See the UN Charter (1945), Art. 1, 55, and 56.

[279] See the UN Charter (1945), CH. III.

[280] See the UN Charter (1945), Ch. III, IV, X, XII, XIII, XIV, and XV; and the Statute of the international Court of Justice (1945).

[281] The UN Charter (1945), Art. 24-26.

[282] See Art. 23 and 27, the UN Charter (1945); and, Stephen C. Neff: "A Short History of International Law", p. 52

[283] See Article 2(4), the UN Charter (1945); and, Peter Malanczuk: *Akehurst's Modern Introduction to International Law*, p. 27.

but also for armed action against aggressors.[284] The UN Charter is, however, also more timid than earlier agreements in that sanctions were not mandatory and automatic, as e.g. in the League Covenant. The SC shall, as argued above, determine the existence of any threat to the peace, breach of peace, or act of aggression and shall make recommendations, or decide what measures shall be taken to maintain and restore international peace and security. To be brief, it is the SC that decides, on an *ad hoc* basis, when, or whether, to impose sanctions on aggressors.[285]

Cordell Hull, Secretary of State in the U.S., believed that the war largely had been caused by the economic conflicts arising from the great depression of the 1930s and subsequent attempts at self-sufficiency and closed trading systems. For this reason, the U.S. set out to create a new world trade system. The Bretton Woods Conference in July 1944, attended by 44 states, prepared the framework for the economic organisation of the post-war world. Two new organisations were set up: the International Monetary Fund (IMF), which was founded to ensure currency stability, and the International Bank for Reconstruction and Development (IBRD, or the World Bank), with the aim to protect and promote foreign investment and eventually economic development. The Brettton Woods Conference also agreed on establishing stable exchange rates, by what amounted to a return to the gold exchange standard for all countries participating. Finally, trade liberalisation would be overseen by an organisation to be called the International Trade Organisation (ITO).[286]

Furthermore, the leaders of Germany and Japan were held accountable for crimes against peace, war crimes, and crimes against humanity in the aftermath of the war in Nuremberg and Tokyo, respectively. Plans even began to be laid for the creation of a permanent international court.[287]

Hence, an analyst or commentator looking around the world in 1945 could find solid cause for optimism. The wartime alliance, despite some frictions, was still functioning, and was to form the basis for a new power system. A new, more ambitious, world organisation, the UN, was about to replace the League of Nations on the initiative of one superpower, the U.S., with the agreement of the other, the USSR. Vital steps had been taken to restore the world economy, to finance reconstruction, and to stabilise exchange rates. Finally, the leaders of the vanquished countries had to take individual responsibility for the crimes they have committed during the war. Taken together, after the havoc brought by WW II, this was a considerable agreement.[288]

However, the ambitious UN collective security system did not work in practice due to the antagonism (regarding power, ideology, and proximity taken together) that developed between the former Allies shortly after the signing of the Charter, and during the Cold War, in the following fully four decades. Hence, the UN failed to achieve its prime objective, to maintain international peace and security.[289] The UN Charter's general ban against force, however, had one effect. It took forced self-defence from a legal remote place relatively speaking into the

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[284] See Art. 42, the UN Charter (1945).

[285] See Art. 39, the UN Charter (1945).

[286] See, regarding the IMF: http://www.imf.org; and, http://www.justdosomething.net/xsp/xsc.asp? uri=/home/zone/uk-guide/international/what-international-monetary; and, regarding the IBRD: http:// web.worldbank.org/WBSITE/EXTERNAL/EXTABOUTUS/EXTARCHIVES/0,,contentMDK:20053333 ~menuPK:63762~pagePK:36726~piPK:36092~theSitePK:29506,00.html. The sites were visited 2005-04-17. See also: P. M. H. Bell: *The World Since 1945: An International History*, pp. 46ff; and Stephen C. Neff: "A Short History of International Law", p. 53.

[287] Malanczuk: *Akehurst's Modern Introduction to International Law*, p. 26; Richard Falk: *The Great War on Terror*, p. 87; and, Stephen C. Neff: "A Short History of International Law", p. 52.

[288] P. M. H. Bell: *The World Since 1945: An International History*, p. 48.

[289] See Art. 1, the UN Charter (1945); and, Peter Malanczuk: *Akehurst's Modern Introduction to International Law*, p. 27.

forefront of international legal consciousness. The ICJ neither found much effective use in the early decades. The ITO never came into being (because of lost interest from the U.S.) and enthusiasm for further international criminal prosecutions waned after the Nuremberg and Tokyo trials. So did interest in establishing a permanent international criminal court.[290] Hence, the situation looked relatively dark.

In spite of the shortcomings described, the UN survived and achieved solid, however, unspectacular successes, largely by accepting the facts of international life, including the new bipolar structure of the world. Following WW II the make-up up the international society changed radically in relation to the pre-war make-up. First, a handful of Eastern European countries (like e.g. the German Democratic Republic, Poland, and Czechoslovakia) became "socialist democracies". Hence, the USSR no longer felt ideologically and politically isolated in its fight against capitalism. Second, a number of countries, earlier subjected to colonial domination, gained political independence as a result of the above mentioned erosion of the colonial empires of, Belgium, France, the UK, Italy, and the Netherlands.[291] After 1960, for this reason, the bulk of the global international society consisted of so-called Third World countries. Together with the socialist states (the so-called Second World) they could easily assemble a two-thirds majority in any international gathering.[292] This new make-up of the international society differs, as we know, radically from that represented in its earlier phase(s). The new situation was, however, not the exact reverse of the former European phase, since the Western minority (the so-called First World) still exerted enormous political, military, and economic power, while the majority was more or less endowed with political and rhetorical authority. Along with newly independent states, a new category of international legal persons became active on the global arena, namely international governmental organisations (IGOs). To conclude, the new situation was not completely different from before, but more complex and contradictory than its predecessor.[293]

The power of veto exercised by the great powers, especially one of the superpowers, in the SC was an acknowledgement that if one of theses powers were opposed to some policy or action it would not work. Neither the U.S. nor the USSR would have accepted the UN without the right of veto. The contradiction between the assertion of human rights (Art. 55 and 56, the UN Charter) on the one hand and the rights of states to control their own affairs on the other (Art. 2[7], the UN Charter) was another necessary compromise.

The UN, as indicated earlier, not only survived, but the organisation developed gradually and took on a number of major roles in the international society. The organisation became a centre for diplomatic activity,[294] the GA became a forum for the expressions of world-views, including the UNDHR (which was adopted without any open opposition), and peacekeeping operations were undertaken. These functions were less than hoped for by some of the founders, but they were solid and in some respects far-reaching.[295]

The post-1945 period has witnessed an explosive increase in international legislation. The codification of international law has made some major developments thanks to e.g. the work of the International Law Commission (ILC), a UN body consisting of legal experts. Progress has

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[290] Peter Malanczuk: *Akehurst's Modern Introduction to International Law*, p. 27. See also Mitchell G. Bard: *The Nuremberg Trials* (San Diego: Greenhaven Press 2001); and, Timothy P. Maga: *Judgment at Tokyo: The Japanese War Crimes Trials* (Lexington: University of Kentucky Press, 2001).

[291] Regarding the end of empires, see e.g. Len Scott: "International History 1945-1990", pp. 76ff. See also John P. McKay, et.al.: *A History of World Societies*, Ch. 34; Adam Watson: *The Evolution of International Society*, Ch. 24; and, William Woodruff: *A Concise History of the Modern World: 1500 to the Present. A Guide to World Affairs*, Ch. 16 and 20.

[292] Antonio Cassese: *International Law*, p. 38.

[293] Ibid.

[294] See Art. 1(4), the UN Charter (1945).

[295] P. M. H. Bell: *The World Since 1945: An International History*, p. 44.

been made in e.g. the law of the sea, diplomatic and consular relations, human rights, and the law of treaties.[296] Furthermore, there has also been a huge increase in the number of areas, in which international cooperation has developed — from monetary policy to civil aviation, from human rights to environmental protection, from deep seabed mining to the exploration of outer space, from democracy to transnational crime-fighting, et cetera.[297] Together with this expansion of issue-areas was a tremendous growth in the number of international organisations, with an ever-proliferating parade of resolutions, programmes of action, secretariats, conventions, protocols, and so on.[298] The effect of all this, taken together, was that the states of the world was tied together into a tighter international society, with elements of a *world society*, than ever before. This development took place gradually and steadily, and has eventually developed to the current global governance.[299]

The development towards a tighter international society must, however, be understood in its proper context. A sense of belonging to the same society is not the same as a sense of solidarity. In spite of the seemingly positive developments, much division and antagonism remained. The Grand Alliance was rent by disagreement. By the end of 1947 the establishment of two opposing blocs was largely in place. Peace was replaced by a cold war, which constantly threatened to become hot. It was within this structural setting that the process of decolonisation took place. An important document in this respect, however, not legally binding, was GA resolution 1514 (XV), The Declaration on Granting Independence to Colonial Countries and Peoples (1960), signalling the normative delegitimation of European colonialism. This document was crucial in establishing the right to self-determination, which in turn facilitated the wholesale decolonialisation of the European empires. Hence, the Cold War international society was characterised by a bipolar structure and three distinct groupings of states, or put in a different way, "three worlds".[300]

The legal strategies of the three groupings of states were, Antonio Cassese writes, a bit different. The First World countries took widely different approaches towards the international legal institutions. Some of them, like the U.S. and the UK, where content with status quos (or "law and order"), while others, especially the Scandinavian countries, tended to be quite responsive to Third World demands and supported the need for thorough social and legal

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[296] See the United Nations Conventions on the Law of the Sea (1982), Vienna Convention on Diplomatic Relations (1961), Vienna Convention on Consular Relations (1963), the Vienna Convention on the Law of Treaties (1969), and the Vienna Convention on Succession of States in Respect of Treaties (1978)

[297] See e.g. Chicago Convention on International Civil Aviation, (1944), International Air Services Transit Agreement (1944), International Covenant on Civil and Political Rights, 1966, International Covenant on Economic, Social and Cultural Rights, 1966), Treaty on Principles governing the Activities in the Exploration and use of Outer Space, including the Moon and Other Celestial Bodies (1967), and the Declaration of the United Nations Conference on the Human Environment (1972).

[298] For an overview, see e.g. Richard Little: "International Regimes"; and, Peter Willets: "Transnational Actors and International Organisations in Global Politics", both in John Baylis and Steve Smith (eds.): *The Globalization of World Politics: An Introduction to International Relations* (Oxford: Oxford University Press, 2001), Ch. 14 and 17, respectively.

[299] For a discussion regarding the concept "world society" and its relation to the concept "international society", see: Mikael Baaz: A *Meta-theoretical Foundation for the Study of International Relations in a Global Era: A Social Constructivist Approach*, pp. 201ff. See also Barry Buzan: "From International System to International Society: Structural Realism and Regime Theory Meet the English School"; Barry Buzan: *From International Society to World Society? English School and the Social Structure of Globalisation*; and, Barry Buzan: *The United States and the Great Powers: World Politics in the Twenty-First Century*.

[300] The term "cold war" can refer to the behavioural characteristics of U.S.-USSR relations, which fluctuated between 1945 and 1989, but it can also refer to the basic structure of their relations, which remained constant. When I speak about the Cold War in this essay I refer to the latter of these meanings. Cf. Richard Crockatt: "The End of the Cold War", in John Baylis and Steve Smith (eds.) *The Globalization of World Politics: An Introduction to International Relations* (Oxford: Oxford University Press, 2001), p. 94. See also Christian Reus-Smit: "International Law", p. 354.

change. In spite of the differences, some major characteristics can be chiselled out. Most European states, due to their historical heritage, were interested in maintaining the traditional legal framework intact as far as possible. The primary concern of these states was stability. However, given the situation they eventually had to accept gradual legal changes.[301]

The international legal attitude of the Western states was influenced by their domestic systems — law was something that should be taken seriously. This legal stance of the West shall, however, not be overemphasised. It was only natural for Western countries to preach law abidance and trying to live up to legal imperatives that had been forged to reflect or protect their interests. Furthermore, in many countries (like e.g. Sweden) politicians and jurists tended to make a strong division between municipal law (which was regarded as a social value in itself) and international law (which was to be complied with so long as it did not turn out to be in conflict with national political goals). This description of the Western attitude on law in general and on international law in particular is helpful in order trying to understand the legal strategy adopted by the First World. They preferred written instruments before custom as well as the procedure of consensus rather than the rule of acclamation.[302]

States in the Second World were interested in using international law to strengthen the socialist countries, maintain good relations with the Western countries but also avert Western influence in their domestic affairs, and attempt to convert Third World countries as much as possible to socialist ideals. Hence, they insisted on sovereignty, peaceful coexistence, and new principles allowing change in the international society along lines more acceptable to the socialist ideals.[303]

Third world countries, which eventually constituted the overwhelming majority of the international society, are in many respects very diverse. To these countries international law was, and still is, relevant to the extent that it protected them from undue interference by powerful states as well as being instrumental in bringing about social change. Hence, their legal strategy consequently hinged on two important principles, namely states sovereignty and radical legal change, especially in order to restructure international economic relations.[304]

On a more fundamental level, however, it stood clear that the fundamentals of international law had not change in any profound way. The basic *positivist* outlook, inherited from the nineteenth century, continued to be dominant. The cornerstone principle, the sovereign equality of states, remained in force — even finding expressions in the UN Charter as one of the fundamental, not to say the most fundamental, principles of the organisation. International law was still regarded, at least in largest part, in positivist terms as an emanation from free wills of the states themselves, expressed either in custom or treaties.[305]

Hence, it might be noted that some of the most important intellectual and political upheavals of the twentieth century had a relatively low impact on international law. Socialism was in fact a conservative force, since it tended to write more dogmatically into the positive vein than did Western countries. Nor did the massive flux of Third World countries onto the world scene brought any fundamental conceptual upheaval. The developing countries accepted, more or less, the established way. This does not mean that they had no impact at all on the international legal scene, on the contrary. They established the right to self-determination as a fundamental (collective) human right.[306]

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[301] Antonio Cassese: *International Law*, p. 39.

[302] Op.cit., pp. 39f

[303] Op.cit., pp. 40f.

[304] Antonio Cassese: *International Law*, pp. 40f.

[305] Stephen C. Neff: "A Short History of International Law", p. 54. Cf. earlier natural law and divine law thinking.

[306] Ibid.

Around the 1980s, a slow change of the atmosphere in international relations in general and international law in particular became visible. It seemed that something like the Idealism of the inter-war period cautiously returned. This development was showed in e.g. the sharp up-turn that the ICJ witnessed in their judicial business. A more thorough change in international relations and international law was, however, yet to come. The dramatic changes started in 1989 with the velvet revolutions in Eastern Europe and culminated in 1991 with the decomposition of the USSR. Just suddenly the Second World was no more. Consequently, there no longer existed in international society three distinct groupings. Nor did the bipolar structure, which dominated international relations for more than four decades. Hence, the end of the cold war, unforeseen as it was, is to be considered a major historical turning point, of importance comparable to events like the Peace of Westphalia (1948), the Congress of Vienna (1815), the Paris Peace Conference (1919) and the conferences held in Yalta and Potsdam in 1945 to discuss the post-war world order.

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The UN was a far better and more advanced experiment in world order than the previous ones (1648, 1815 and 1919). "Suffice is to mention", Antonio Cassese writes, "just one element: for the first time the Charter prohibited not just war, but any threat of or resort to the use of military force." "This by itself", he continues, "marked an enormous advance in international institutions".[307] A central feature of the modern international legal system is the normative attempt to control the use of force. Article 2(4) of the UN Charter provides that:

> All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.[308]

The rule, which is of universal validity, is well drafted, since it speaks of the threat or use of *force*, and not *war*. Hence, the article applies to all force, regardless of whether or not it constitutes a technical state of war. But, it also badly drafted, since it prohibits the threat or use of force only against the *territorial* or *political independence of any state* or in any manner inconsistent with the purposes of the UN. Hence, violence used in the interest of justice and international law might be considered legal. But, the overriding purpose of the Charter is to maintain international peace and security. This indicates that any breach of international peace is automatically contrary to the purposes of the UN. Article 2(4) shall be interpreted extensively. This is confirmed by the Friendly Relations Declaration, which was adopted by consensus by the UN GA in 1970.[309] The only legal exceptions to the prohibition of the use of force are, on the one hand, the right to self-defence (Art. 51), and, on the other hand, measures taken by the UN SC under Ch. VII, the UN Charter.[310] The system for collective security created in 1945 bears a strong resemblance to the multilateral Concert of Europe of 1815. The system was, however, in practice undermined by the atomic bomb and the Cold War.

The bipolar world order of the Cold War took shape as the incompatible goals of the victorious power of WW II eventually became more evident. The conflict was about geopolitics, but it was also about the superiority of two different socioeconomic systems. The conflict was total, however, without the outbreak of any war between the superpowers. The

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[307] Antonio Cassese: *International Law*, p. 37.

[308] Art 2(4), The Un Charter (1945).

[309] Peter Malanczuk: *Akehurst's Modern Introduction to International Law*, pp. 309f.

[310] Articles 12 and 24, the UN Charter (1945), states that it is the SC that is primarily responsible to maintain international peace and security; as a result the SC can under Article 39 use collective force after determination the threat of peace.

Cold War violated state sovereignty as much as did the power-of-balance system during the nineteenth century. After the end of WW I, when the post-war borders were drawn, the right to self-determination of peoples was considered important. After the end of WW II, however, this question was neglected completely.[311]

Simply put, the Cold War, which was a reality in 1948, was a world order; it was bipolar, consisting of two well-armed superpowers, representing two different social orders (liberal-capitalism and communism). The status of the superpowers was dependent of the division of Europe, which cut trough Germany, one of the old great powers in Europe. The balance-of-power in Europe was dependent on this division as well as the terror balance. The rest of the world was, however, not very stable. The struggle for spheres of influence was going on continuously between the superpowers, which considered this struggle as continuation of the principle of balance-of-power applied in Europe. The European stability was not matched by global stability.[312] To conclude, the Cold War (characterised by its bipolar structure and plurilateral decision-making procedure as well as "respect" for international law) both contributed to create conflicts as well as pacified the capability of the UN SC to act in accordance with Ch. VII, the UN Charter.

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[311] Björn Hettne: *Från Pax Romana till Pax Americana: Europa och världsordningen [From Pax Romana to Pax Americana: Europe and the World Order]*, p. 80.
[312] Op.cit., p. 81.

The End of the Cold War and the Idealism of the 1990s

The key structural elements of the Cold War was political and military (foremost nuclear) rivalry between the U.S. and the USSR, ideological conflict between capitalism and communism, the division of Europe, and the extension of the superpower conflict to the Third World. There is no agreed view why the Cold War was brought to an end. On an overall level, however, it had to do with the collapse of communism, in USSR as well as Eastern Europe, which in turn was caused by internal and external circumstances in interaction. The events between 1989 and 1991 — from the collapse of the Iron Curtain and the dismantling of the USSR — represented a genuine watershed in the history of international society in at least three respects. First, they, as argued above, marked the end of the broadly bipolar structure, based on the rivalry between the East and the West. Second, the former communist countries experienced serious problems of transition, ranging from economic collapse, which affected them all, to the disintegration of the state itself, as in the case of e.g. the USSR and Yugoslavia. Third, the roles of international organisations were modified or renewed. This change was most obvious by the ending of the virtually automatic split in the UN SC along Cold War lines. To be brief, the situation after the end of the Cold War was certainly a new one in international relations, since it saw radical change at the system level, at the level of the nation-state, and in international organisation. Hence, it is possible to speak about the dawn of a new world order.[313]

The term "New World Order" began to be used in the summer of 1990 when Iraq invaded Kuwait and thereby sparking the first major post-Cold War international crisis. In political terms the war to liberate Kuwait implied the possibility of new elements in the old picture: a renewed respect for, as well as a greater unity within, the UN (where it was possible for SC to approve the use of force against Saddam Hussein);[314] an acceptance that the U.S. held particular, hegemonic, responsibilities; and, a readiness to respond forcefully to those who used aggression to challenge the new world order. The UN was now, for the first time since the founding of the organisation, able to protect international peace and security by collective means, i.e. as it was thought from the beginning. The chief idea was that the U.S. should lead the world away from the old balance-of-power approach to international peace and security, and instead foster a "universalist" alternative, with a revitalised UN and a new World Trade Organisation (WTO). More ominous possibilities were, however, also possible to detect. One crucial question was whether the now undisputed hegemony would act in accordance with internationalist principles or with American national interests. Many in the West in the beginning of the 1990s were (too) attracted by the idea that the world would be policed by the U.S., ignoring the fact that the U.S. might not be willing to bear the cost and the possibility that the exercise of the American hegemony might not be universally welcomed.[315]

UN forces, under American leadership, (easily) defeated the Iraqi troops and evicted them from Kuwait in early 1991. Shortly after this successful operation, Yugoslavia, due to the collapse of communism, broke apart and several of its former republics declared independence. The must obvious result following the decomposition of Yugoslavia was a devastating civil war. Slovenia and Croatia were two republics demanding independence, something that Serbia disapproved. Slovenia and Croatia, however, gained international recognition as sovereign states. Hereby the Yugoslavian conflict became internationalised. After the independence of

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[313] Richard Crockatt: "The End of the Cold War", p. 93.

[314] See SC res. 665 (1990).

[315] John W. Young and John Kent: *International Relations since 1945: A Global History*, pp. 605f.

Slovenia and Croatia, the conflict travelled to Bosnia. In Bosnia the situation was complicated due to the fact that its population was diversified into three major ethnic groups: Bosnians, Croats, and Serbs — who fought against one another. The newly independent states of Serbia and Croatia supported their fellow ethnic groups respectively. Hence, also this conflict was internationalised. Major crimes against humanitarian law (*jus in bello*) were committed during the conflict by all parties, including ethnic cleansing. The UN SC took action via a number of resolutions characterising the conflict as a threat towards international peace and launched a number of non-violent sanctions. The SC also created a peacekeeping force, the UNPROFOR, in Bosnia with the aim to protect civilians and to facilitate the distribution of humanitarian aid. Furthermore, a special war tribunal was established in The Hague to take legal actions against individuals suspected to have committed war crimes on Yugoslavian soil. The Bosnian Serb offensive was, however, not stopped until the signing of the Dayton agreement, which was accepted after air strikes by NATO on Serbian positions.[316] To conclude, the overall reaction of the international society was lame, casting shadows over the newly awakened optimistic prospects for a new world order. In short, the "New World Order" passed its first major test, the Gulf War, but failed its second, Yugoslavia, especially with regard to the ethnic cleansing in Bosnia.[317]

In 1992, 37.000 foreign troops from more than twenty countries under the leadership of the U.S. intervened in Somalia on *humanitarian* grounds. The operation was a normative landmark of the SC practice of (collective military) humanitarian intervention based on Ch. VII, the UN Charter. Somalia was at the time torn apart by clan-based civil wars that had led to the collapse of the government structure. Hence, the "country" was a prime example of the new phenomenon known as "failed states". Following an offer made by the U.S. to lead a military operation (known as "Operation Restore Hope") to protect the delivery of humanitarian relief, on the 3rd of December 1992, the UN SC unanimously adopted resolution 794 (under Chapter VII, the UN Charter, 1945) and authorised the use of all necessary means to provide a secure environment for the relief operations. In June 1993, twenty-four Pakistani soldiers, belonging to United Nations Operation in Somalia II (UNOSOM II), were killed by an attack in Mogadishu. Hereby UNOSOM II became a part of the conflict. The U.S. deemed it necessary to defeat General Adid and took military measures against his forces. Becoming a party of the conflict led to dissent among the member states and, in extension, to an early withdrawal of forces. After eighteen American soldiers were killed in October 1993, the U.S. announced that it would withdraw from Somalia by the 31st of March 1994; so did Belgium, France, and Sweden. To conclude, the UN-sanctioned collective military intervention in Somalia ended in a fiasco, although it had been successful in distributing humanitarian aid.[318]

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[316] Katinka Svanberg Torpman: *Folkrätten och våldsförbudet — När är våld tillåtet? [International Public Law and the Prohibition of Violence — When is Violence Permitted?]* (Västerås: Folk och Försvar, 2003), p. 25. See also e.g. SC res. 713 (1991), 752 (1992), 757 (1992), 764 (1992), 770 (1992), 771 (1992), 787 (1992), 798 (1992), 819 (1993), and 824 (1993).

[317] See Joshua S. Goldstein*: International Relations* (New York: HarperCollins, 1996, 2nd ed.), pp 43f. Cf. Geoffrey Stern: *The Structure of International Society: An Introduction to the Study of International Relations* (London: Pinter Publishers, 1995), p. 3.

[318] Peter Malanczuk: *Akehurst's Modern Introduction to International Law*, pp. 402ff. On the 3rd of December 1992, UN SC passed Resolution 794, which established for the first time a UN peacekeeping force under Ch. VII of the UN Charter (1945). Normally reserved for conflicts that are characterised as threats to peace and acts of aggression, Ch. VII was invoked because the unique character of the Somali crises required an immediate and exceptional response. SC res. 794 authorised the use "of all necessary means to secure the delivery of humanitarian aid." In using all necessary means the resolution allowed the US to establish offensive rules of engagement. At the same time, however, it left the resolution open ended. Some interpreted the resolution as authorising disarmament of Somali factions. See: http://www. globalsecurity.org/military/library/ report/1995/wce.htm. See also: http://novaonline.nvcc.edu/eli/evans/his135/Events/Somalia93/Somalia 93. html. The sites were visited 2005-03-28.

On the 17th of May 1994, the UN SC adopted resolution 918, thereby determining that the current situation in Rwanda constituted a threat to international peace and security and imposed an arms embargo against the country. Rwanda, a former German and later Belgian colony, has a long history of ethnic cleansing between the Hutu majority and the Tutsi minority, which reappeared in the form of a full-scale internal and cross-border conflict in October 1990 between Hutu-controlled armed forces of the French-backed Government of Rwanda and the Tutsi-led Rwandese Patriotic Front (RPF) operating from Uganda and areas in the north of Rwanda. On the 22nd of June 1993 the UN SC, at the request of Rwanda and Uganda, decided to establish the United Nations Observer Group Mission Uganda-Rwanda (UNOMUR) to help prevent the military use of the border area. After the civil war, when the parties had signed a peace agreement in Arusha, Tanzania, in August 1993, the UN SC set up another mission, the United Nations Assistance Mission for Rwanda (UNAMIR) to assist the implementation of the agreement. Its mandate was to supervise the establishment of a new government by election in October 1995.[319] There were difficulties in implementing the agreement. These difficulties exploded into a severe crisis after the Presidents of Rwanda and Burundi were killed on the 6th of April 1994. Total chaos and massive ethnic violence with "genocidal dimensions" (read genocide) emerged throughout Rwanda in the weeks that followed. Up to one million people was slaughtered in just a few months. The UNAMIR observer forces were not in position to stop the killings (nor was it within its mandate). In April the UN SC decided to reduce the number of UNAMIR forces, and it was, as argued above, not until the 17th of May 1994 that the SC took measures trying to stop the killings by the adoption of Resolution 918. It was, however, only after France had offered to intervene on the 22nd of June that the SC adopted Resolution 929 and with reference to Ch. VII authorised France and other willing member states to use "all necessary means" to protect the civilian population in Rwanda. The French intervention, known as *Opération Turquoise*, clearly shows the problem of self-interests of states authorised by the SC to take military action under Ch. VII. "Of all states in the world, France was probably the worst choice for intervention, but it was France that was willing to act",[320] no one else was, especially not the U.S. due to the experiences in Somalia a year earlier. In the wake of Somalia, President Bill Clinton, laid down clear conditions relating to aims and an exit strategy for any future intervention on humanitarian grounds.[321]

By the mid-1990s the feeling of satisfaction in the West was dimmed and, instead of world order, many found it difficult to discern a structure to international relations. Those who found a pattern were liable to be radically more pessimistic and less universal than early 1990s observers, like e.g. Francis Fukuyama, had been.[322] Most celebrated of all, Samuel P. Huntington, foresaw a coming clash of civilisations in which groups of states would ally on the basis of cultural links and compete with other such groups for resources. This helped stir up fears for a time of clash between the West and the rest, especially Islam.[323] The sense of confusion was, however, not generated only by the lack of a central theme in international relations or by the bloody upheavals in former Yugoslavia, Somalia, and Rwanda, but by

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[319] See SC res. 872 (1993).

[320] Peter Malanczuk: *Akehurst's Modern Introduction to International Law*, p. 407. For a more anthropological contribution about the incident in Rwanda in 1994, see e.g. Philip, Gourevitch: *We Wish to Inform You That Tomorrow We Will Be Killed With Our Families: Stories from Rwanda* (Picador, London, 1999).

[321] John W. Young and John Kent: *International Relations since 1945: A Global History*, p. 609.

[322] See Francis Fukuyama: "The End of History", *The National Interest*, vol. 16, 1989; pp. 3-16; and, Francis Fukuyama: *The End of History and the Last Man* (London: Hamish Hamilton, 1992).

[323] See Samuel P. Huntington: "The Clash of Civilizations", *Foreign Affairs* (1993), vol. 72, no. 3, pp. 22-72; and, Samuel P. Huntington: *The Clash of Civilizations and the Remaking of the World Order* (Simon and Schuster: New York, 1996).

concerns over the possible negative effects of what has been known as globalisation and by doubts over the commitment of the Clinton administration to a just world order.

Bill Clinton defeated George Bush in the 1992 election by exploiting the slogan "It's the economy, stupid" against a President who focused on international relations while the living standards in the U.S. were stagnant. Clinton, however, recognised that, while the U.S. was unique in its military strength, it could not exercise *isolationism*, since it needed access to global markets for its own economic good. There was no return to pre-war isolationism. Clinton emphasised the American dependency on export and the American people were still possible to motivate to act overseas in certain circumstances. Hence, Clinton was beginning the move of the U.S. towards a more assertive, unilateral role in international relations in which U.S. interests would triumph over the idea of contributing to a new just world order. The successor to the earlier doctrine of *containment*, introduced by Truman, became the strategy of *enlargement*, i.e. enlargement of the world's free community, i.e. countering aggression and supporting liberalisation of states hostile to democracy. In the first place it was hoped that the U.S. would act in line with the UN, but in his second term Clinton seemed more and more willing to act unilaterally.[324]

The post-Cold War era was anticipated in different terms than the Cold War era. Power politics and bipolarity would be, it was believed, superseded by a multipolar world order, in which cooperative institutions would play key roles in a new world order. Conflict would be less likely and greater prosperity would result from the acceptance of Western norms and political as well as economic values. With the encouragement of the U.S. a series of free trade schemes were pursued in North America, the Western Hemisphere, and the Asia-pacific. The U.S. also demanded that the developing countries adopted liberal trade policies, privatisation, and reduced government expenditure.

Comprehending the post-Cold War era was made much more difficult by the fact that "globalisation" moved to the fore and accelerated at the same time as nationalism and ethnicity seemed to find new potency in areas like the former USSR, the former Yugoslavia, and Central Africa.

Together with globalisation, ethnicity and nationalism contributed to a development towards increasing disagreement between the permanent members of the UN SC. When the crisis in Kosovo culminated in the summer of 1999 the disagreement between the five states in the SC was, as argued previously, complete. A year before the NATO intervention in 1999 the UK tried to persuade Russia and China to agree to a Ch. VII resolution that would allow NATO to take military action if Belgrade did not stop its persecution and ethnic cleansing of Kosovar Albanians. But Russia and China made it quite clear that they considered Kosovo to be an internal problem of the FRY and therefore not the legitimate concern of the UN SC. NATO, nevertheless, persuade them to accept Resolution 1199, which was a Ch. VII resolution, demanding that the FRY ceased its actions against Kosovar Albanians. The resolution, however, does not explicitly authorise the use of force. Although the UN SC did not expressly sanctioned NATO's eventual use of force they chose not to condemn it either. Immediately after NATO launched its first attack against the FRY, Russia tried, via the UN SC, to condemn NATO's use of force and demanding an immediate stop to the bombings. It was, however, only three countries (Russia, China and Namibia) that voted in favour of the resolution, which thereby was defeated. To conclude, the international community refused to authorise a group of states to breach the sovereignty of the FRY to protect some of the citizens of that country, but it also refused to condemn it or act against the same group of states for doing so. Hence, the political and legal situation became indistinct.

This indistinctness is clearly expressed by the UN International Commission on Kosovo. The Commission concluded that the intervention was illegal because there was no formal

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[324] John W. Young and John Kent: *International Relations since 1945: A Global History*, pp. 609f.

approval by a Security Council Resolution, but the Commission also concluded, in parallel, that all diplomatic routes to stop the mass killing in Kosovo had been exhausted. It was therefore legitimate of NATO to come to the rescue of Kosovo.[325] Even though it is unlikely that the Kosovo case can serve as a precedent for other regional organisations to act with force to prevent human rights abuses within a sovereign nation state, without sanction from the UN SC, it blurs *the* international law and opens up for a more permitting attitude towards the use of violence as a legitimate means for promoting certain goals in world politics. The new attitude towards human rights and humanitarian interventions challenges a restrictive view of the use of military violence as a legitimate means in international relations and implies a deviation from Art. 2(4), the UN Charter. A deviation that became even more evident in the wake of the acts of terror 9/11 and the Great War on terror that followed.

With the introduction of humanitarian interventions during the 1990s we have seen a return of the Just War Doctrine, which was more or less abandoned during the eighteenth and nineteenth centuries.[326]

To be brief, the world has changed in several ways after the end of the Cold War. The greatest current threat to the world order is no longer traditional inter-state wars. Internal wars have haunted several continents during the 1990s, maps have been rewritten, ethnicity and nationalism has increased dramatically, gross violations of international human rights and humanitarian law continues, and the terrible acts of international "megaterrorism" that struck the U.S. on 9/11 have changed the world, once again, forever.[327] Not only regarding the use of violence in international relations, but in, more or less, all areas of world politics.

Already the day after the 9/11 terror attacks the UN SC passed Resolution 1368 condemning the acts and acknowledging the U.S. the right to self-defence in accordance with Article 51, the UN Charter, 1945. This was the first time ever that the SC connected megaterrorism and the right to self-defence. The U.S. argued firmly that the terror attacks entitled to self-defence in accordance with the UN Charter. The U.S. administration suspected Osama bin Laden and the terror network al-Qaeda, operating from bases in Afghanistan, for the attacks. The Taliban regime of Afghanistan was urged to extradite bin Laden. The Talibans, however, refused to do so, unless tenable evidence for the guilt of bin Laden was presented. On the 7th of October the U.S. and UK therefore initiated a military operation against Afghanistan. The operation was, in accordance with the protocol, reported to the UN SC. The attacks, without doubt, imply a new and very extensive interpretation of Article 51, the UN

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[325] See, *The Kosovo Report: Conflict, International Responses, Lessons Learned.* Compiled by the Independent International Commission on Kosovo (Oxford: Oxford University Press, 2000).

[326] In a speech in April 1999, UK Prime Minister Tony Blair set out five "considerations" to be borne in mind when deciding when and whether to "get actively involved in other people's conflicts." These were: (i) Are we sure of our case? (ii) Have we exhausted all diplomatic options? (iii) Are there military options we can sensibly and prudently undertake? (iv) Are we prepared for the long term? (vi) Do we have national interests involved? By these questions, the Prime Minister recalls a set of principles, which, as we know, can be traced back to Cicero and which has been developed and refined most famously by Augustine of Hippo and Thomas Aquinas. The Just War tradition, long used to evaluate the justice of "traditional" interstate wars, may be of use when considering the relative merits of interventions, especially at a time when, more than ever, these are being undertaken for "humanitarian" purposes. Hugh Beach and Roy Isbister: "Old Wine, New Bottle: The Just War Tradition and Humanitarian Intervention", *ISIS Briefing on Humanitarian Intervention* (2000), no. 3. The article is available on: http://www.isisuk.demon.co.uk/0811/isis/uk/hiproject/no3_paper. html. The site was visited 2005-04-18.

[327] Diana Amnéus and Katinka Svanberg: "Introduction", in Diana Amnéus and Katinka Svanberg (eds.): *Peace and Security: Current Challenges in International Law* (Studentlitteratur: Lund, 2004), p. 15. The term "megaterrorism" is borrowed from Richard Falk. Megaterrorism is understood as violence against civilian targets that achieves significant levels of substantive as well as symbolic harm, causing damage on a scale once associated with large-scale military attacks under state auspices, and thus threatening the target society in a warlike manner that gives rise to a defensive urgency to strike back as effectively as possible. See Richard Falk: *The Great War on Terror*, pp. 7f.

Charter. The new interpretation does not only allow states the right to self-defence after large scale terror attacks, so-called megaterrorism, but also a right to pre-emptive (and possibly preventive) self-defence, long after the terror attack has been completed.

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Before 9/11 it was, Björn Hettne argues, still possible to speak about different world order alternatives. The future was still relatively open. No American president has, since Franklin D. Roosevelt after the 7th of December 1941, probably had a larger field of manoeuvre in influencing the shape of the future world order than President George W. Bush had.[328] In theory the development could have gone in two major directions, from genuine multilaterlalism, in which the states of the international society takes common (democratic) decisions, to unilateralism, which means that one powerful state shoulders the global leadership self-willed. After 9/11 there was even in higher degree than back in 1990 and the Gulf War a possibility to create an institutionalised multilateralism. A world order based on international law, a collective geopolitical analysis and an extensive participation by states as well as other transnational agents in decision-making and implementations processes. But different forces pulled in different directions. So which where the possible scenarios that existed before (and immediately) after 9/11? This question will be dealt with in the next chapter.

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[328] Cf. Michael Cox: "From the Cold War to the War on Terror", in John Baylis and Steve Smith (eds.): *The Globalization of World Politics. An Introduction to International Relations* (Oxford: Oxford University Press, 2005), p. 132.

Alternative post-Cold War World Orders

The events between 1989 and 1991, when official communism as well as the USSR collapsed et cetera, were dramatic for our understanding of international relations. These extraordinary and most unanticipated upheavals did not only change the world, as we had hitherto known it, but also made possible the creation of what seemed to be a new international society. The years around 1990 led to much confusion and disarray about the collapse of the bipolar world we have lived in for more than four decades, but it also lead to a good deal of optimism.

Thus, the world order changed dramatically because of the events that took place in 1989 and onwards, but that does not mean that the new world order that came into existence bears no resemblance at all to what existed before. Many of the problems that seemed to be typically post-Cold War phenomena were, in fact, rooted in the Cold War or even the pre-Cold War era. The current world is very much a prisoner of history. The past and present interacts in complex ways, i.e. the legacy of the past and new emerging forces shape the current international system of states. This is what makes international relations (in its widest sense) so interesting, so difficult to understand, and even harder to predict. We seem, as argued in the introduction, to be entering into a new political era and a new world order. Instead of the Westphalian structure with all power focused to the sovereign nation state (since 1945, however, within a bipolar order) we can see a multilevel structure and a more diffuse concept of sovereignty. However, the future is still in flux and is therefore uncertain.[329]

One common method to deal with an uncertain future is to refine a few dimensions, and from these formulate alternative scenarios. A "scenario" is not a forecast, i.e. a description of a relatively unsurprisingly projection of the present. Neither is it a vision, i.e. a desired future.[330] A scenario is a well-worked answer to the question: what can conceivably happen? Or, put in a different way: What could happen if X? In that way, the scenario differs both from a forecast and vision, both of which tend to conceal risks. The scenario therefore makes risk-management possible. Different scenarios does not necessarily need to be realised in their pure forms, but can be combined in order to understand future world politics.

One possible way trying to understand the New World order is to take a look at how some different, and entirely credible ways a number of scholars, writing from different ideological and cultural backgrounds, have tried to understand — and in some cases anticipate — the main characteristics of the post-Cold War era. Some of the contributions presented *intra* does not fully qualify as scenarios in its pure form, but are more to be considered as (more or less loosely held) forecasts. Nevertheless, the different contributions are presented together regardless of their different level of ambition, since they are all interesting. Among scholars interested in world politics optimists, like Francis Fukuyama, as well as pessimists, like Samuel Huntington and Robert Kaplan, can be identified. More cynical scholars, like Robert Cox, who argues that nothing has changed at all — that the world order is as unequal and exploitative as ever — is also present in the debate. Other standpoints as well are possible to identify. The

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[329] Cf. Björn Hettne: *Från Pax Romana till Pax Americana: Europa och världsordningen [From Pax Romana to Pax Americana: Europe and the World Order]*, p. 87; and, Michael Cox: "International History since 1989", in John Baylis and Steve Smith (eds.) *The Globalization of World Politics: An Introduction to International Relations* (Oxford: Oxford University Press, 2001), p. 111ff.

[330] The term "scenario" originates from the theatre. By the term is understood a brief description of the course of events in a play. If we transfer the concept to future scenarios it would mean that a complete scenario should describe developments from now until a given future time. At each time the scenario shall give a description of: agents, occurrences, time when different occurrences will happen, where they will happen, what the necessary conditions for them to happen are, and them motives lying behind the occurrences to happen. "Introduction to Scenario Learning" (Stockholm: Kairos Future AB, 2004). The text is available on: http://www.kairosfuture.se/templates/Page.aspx?id=605. The site was visited 2005-03-29.

choice of contributions about current and future world politics can be sorted in different ways. The ordering principle chosen below is to put the future role of the (Westphalian) sovereign nation state in the centre, since the nation state has been and still is the most important agent in the world system. Accordingly, the question to answer is: what alternative forms of universal political organisation to the international society do exist? The number of alternatives to the state system possible to conceive is, of course, boundless. In what follows I will confine my attention to a few alternatives that may be judged significant. Hence, three different major perspectives will be identified. Each main perspective can in order be divided into more concrete scenarios. The first main perspective possible to identify is a *neo-Westphalian* political order. This perspective is characterised by a consolidation of the nation-state through international cooperation within e.g. the UN or different regional organisations (such as the EU). Within this perspective two scenarios can be identified, *multilateral optimism*, on the one hand, and, *militant plurilateralism*, on the other. The second main perspective possible to identify is a (return to a) *pre-Westphalian* political order. In this perspective political power is trickled down, due to inability of the state to deliver order, to subnational centres of power, like for example historical regions and local societies. This perspective can be divided into three different scenarios, *constant disorder* and *stable chaos* as well as a "special" pre-Westphalian scenario, namely *the coming of empire*. The third perspective is a *post-Westphalian* political order. In this perspective power, through a political mustering of strength achieved by the scarification of sovereignty, is located at supranational organs, macro-regional or global. Within the post-Westphalian perspective, it is possible to divide between a *world government* and an *interregional order*. Hereby seven different scenarios can been identified: (i) *multilateral optimism*, (ii) *militant plurilateralism*, (iii) *durable disorder*, (iv) *stable chaos*, (v) *the coming of empire*, (vi) *interregionalism*, and (vii) *world government*. These scenarios, which will be elaborated *intra*, represent "ideal types".[331] They does not necessarily have to been realised in there pure form, but can be combined in the "real" development of world politics. Before presenting the different scenarios, a note of clarification might be illuminating. In this chapter I do not try to make any qualitative judgement of the intrinsic value of the approaches presented, but only to summarise them briefly. An evaluation of the scenarios will be done later, in the last chapter of the essay.

Neo-Westphalian scenarios

This perspective is anchored within the Liberal tradition of International Relations, which in turn is anchored around the liberty of the individual (state).[332] Domestic and international institutions are judged according to whether they further this aim (or not). This basic principle, however, allows for significant variations, reaching from those who believe in total freedom to those who believe that freedom needs to be constrained for the greater good. Another core feature among Liberals is the idea that warfare is an unnecessary and outmoded way of setting disputes between states. Even though some common features exist between Liberal scholars it also exists divergences on several issues, like e.g. the human nature, the causes of war, the state, and the role of international institutions, therefore it is most likely more appropriate to speak of not one Liberal strand, but several. The different strands are, however, rooted in the key principles briefly presented above.

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[331] The concept "ideal type" emanates from Max Weber, and can be understood as a sort of measure against which it is possible to compare reality and note to what extent it diverges from the ideal type. Lennart Lundquist: *Det veteskapliga studiet av politik [The Scientific Study of Politics]*, p. 82.

[332] Tim Dunne: "Liberalism", in John Baylis and Steve Smith (eds.): *The Globalization of World Politics. An Introduction to International Relations* (Oxford: Oxford University Press, 2005), pp. 156ff.

Multilateral Optimism

In this scenario the UN, or some comparable body founded upon the co-operation of sovereign states on a global basis, is the predominant force in international relations. The UN Charter, Hedley Bull writes, is observed by member states in the way it was hoped that they would do by the more visionary founders of the organisation. Simply put, the scenario would represent the fulfilment of a Grotian (or solidarist) vision of world order, which envisages that states, while setting themselves against the establishment of a world government, nevertheless seek, by close collaboration between themselves and by close adherence to constitutional principles of world order to which they have given their assent, to provide a substitute for a world government.[333] The Grotian doctrine, he continues, seeks to achieve a more orderly world by restricting or even abolishing resort to war by individual states for political ends, and promoting the idea that force can legitimately be used only to promote the purposes of the international community,[334] or in the case of self-defence. Central in this perspective is the system of collective security, which implies that world order should rest not only on a balance-of-power, but on a prevalence of power wielded by a combination of states acting as the agents of international society as a whole that will deter challenges to the system or deal with them if they occur.

In the late 1980s Francis Fukuyama, Professor of International Political Economy at the Johns Hopkins University, leapt to prominence by, with a great sense of timing, arguing that international society had entered a new and lasting phase by the end of the Cold War. He claimed that the change, in fact, was so dramatic that it might be accurate to speak of "the end of history". This new phase represented the worldwide triumph of liberal democratic capitalism with the collapse of Communism. Hence, history had ended in the sense that there was no room for large ideological battles.[335] The chief ideas in his optimistic (and controversial) argument, which he derives from the writing of Immanuel Kant and Friedrich Hegel as well as critical readings of Karl Marx, consists, Michael Cox writes, of rather simple but highly important assertions. These assertions can be summarised in the following way. First, "history" since the French Revolution has been driven by a core dynamic conflict between the forces defending the ideals of "bourgeois" individualism and those supporting collectivism. Second, with the Russian Revolution of 1917 the balance clearly tilted towards the latter. But, by the late 1970s the balance began to tilt the other way as the various efforts at economic planning in the Third World started to show signs of fatigue. Hence the socialist project was in trouble already before the fall of communism in Eastern Europe and the USSR. The trouble, however, became manifest when Mikhail Gorbachev assumed office in the USSR in 1985 and began to challenge traditional Marxist thinking about the world in general and the role of the market in particular. This development became even clearer when Gorbachev finally decided to abandon Eastern Europe and the peoples of these countries opted for bourgeois democracy and market economics. The division of Europe hereby ended entirely favourable to the West. This, Fukuyama argues, represented a huge victory for the forces of individualism, marking what he provocatively termed the end of one phase in history and the beginning of another where liberal democracy and liberal economic values would prevail globally. There was no alternative to liberal capitalism, Fukuyama concludes.[336] Political statements about the potential for peace in the post-Cold War era, first by George Bush and later by Bill Clinton paralleled Fukuyama's

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[333] Hedley Bull: *The Anarchical Society: A Study of Order in World Politics*, p. 230

[334] Ibid.

[335] See Francis Fukuyama: "The End of History"; and, Francis Fukuyama: *The End of History and the Last Man*. See also: http://www.uwp.co.uk.book_desc/1428.html. On this page Howard Williams, Gwyn Matthews, and David Sullivan have published a review of Fukuyama's book from 1992. The site was visited 2004-12-16.

[336] Michael Cox: "International History since 1989", in John Baylis and Steve Smith (eds.) *The Globalization of World Politics: An Introduction to International Relations*, pp. 113f.

optimism. George Bush praised the New World Order on the 11th of September 1990 in a State of Union Message speaking about the Iraqi invasion of Kuwait. He said: "What is at stake is more than one small country, it is a big idea --- a new world order ... to achieve the universal aspirations of mankind ... based on shared principles and the rule of law ... The illumination of a thousand points of light ... The winds of change are with us now". A few months later, on the 6th of February President Bush said, speaking to the Economic Club of New York: "My vision of a new world order foresees a United Nations with a revitalized peacekeeping function".[337] Hence, the message was that the world could look forward to a well-functioning UN, less dangerous, and more prosperous times. The Iraqi war in 1990 can stand as a prototype for this ideal type.

An interesting contribution in the spirit of multilateral optimism is the 1995 report entitled *Our Global Neighbourhood* by the Commission on Global Governance chaired by Ingvar Carlsson (then Swedish Prime Minister) and Shridath Ramphal (former Secretary-General of the Commonwealth). The report,

> deals with how the world has been transformed since 1945, making changes necessary in our governance arrangements … [it contains] many recommendations, some quite radical, for promoting security in its widest sense, including the security of people and the planet … [it put forward] recommendations for managing economic interdependence, and for reforming the United Nations in ways that also offer a larger role to people through the organizations of international civil society … [and the authors] address the need for extending on the global stage the rule of law that has been so great a civilising influence in national societies … [the authors] conclude by urging the international community to mark the fiftieth anniversary of the United Nations by beginning a determined process of rethinking and reform … This is a time for the international community to be bold, to explore new ideas, to develop new visions, and to demonstrate commitment to values in devising new governance arrangements.[338]

To conclude, the Report, anchored in traditional Idealism, is a call for an activated multilateralism, including not only all sovereign nation states but also the global civil society. The Report expresses less naïve optimism and sees more obstacles than authors like Fukuyama do. It is still, however, anchored in the Liberal tradition believing firmly in the possibility of intra-state co-operation on a global level. This scenario is close to what Hedley Bull has labelled the "solidarity of states".[339] If there is a strong will among sovereign states to stop a process of political break-down and fragmentation, globally as well as in the in the close neighbourhood it is, as we have seen before in history, possible to create a "Concert" of coordinated actions, like the Great Powers of Europe did after the end of the Napoleonic war. Such an ideal type is plurilateral rather than multilateral. In this approach it is held that freedom needs to be constrained for the greater good (like for example to promote democracy), if necessary with military means. We will now turn to discuss such a scenario.

Militant Plurilateralism
This ideal type, militant plurilateralism, is classical in the sense that it has its historical precursor in the European Concert of the nineteenth century. In the international relations of the 1990s the NATO, in its different incarnations and constellations, Björn Hettne writes, is equivalent to the Concert of Europe. The major idea in this scenario, he continues, is that nations that have the resources, the interest, and the political will to interfere can do so whenever they find it necessary by creating "coalitions of willing". In more concrete terms it means that a number of

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[337] Both quotes are taken from: http://www.threeworldwars.com/nwo-timeline.htm#90. The site was visited 2004-12-16.
[338] Ingvar Carlsson and Shridath Ramphal (co-chairmen): *Our Global Neighbourhood: The Report of the Commission on Global Governance* (Oxford: Oxford University Press, 1995), p. xvii.
[339] See Hedley Bull: *The Anarchical Society: A Study of Order in World Politics*, pp. 230ff.

states takes command over the world order, or, to be more precise, what seems to develop into a disorder. The other states in the international society can only face the situation, not directly influence it. The purpose of such actions is in general to restore order. Hence, only states with a strong will to change the world order regret plurilateralism. Plurilaterlism can, however, vary regarding legitimacy. If such actions are more or less unilateral and temporarily they can be compared with nineteenth century punishment actions and the legitimacy of them are dubious. The legality of plurilateral actions are, per definition, always low. But if such an action is a part of a bigger pattern of similar actions towards similar challenges, and it is carried out without too big protests, it can be considered as a more or less permanent order, which is a relatively legitimate, however not legal, world order. The most obvious indicator of a trend towards militant plurilateralism in current international relations are, on the one hand, the humanitarian intervention in Kosovo in 1999, and, on the other hand, the attack on Afghanistan in 2001 by the coalition of the willing. Both actions are from a strict international legal point of view illegal, but have, by a majority of states been considered as legitimate, however, the former more so than the latter. This development has cleared the path to a thorough change in the world order, something that became evident by the attack of the U.S. on Iraq in 2003; an attack that can be questioned not only regarding legality, but also regarding legitimacy.[340] The consequences of this latest development in international relations have we not seen yet. Might it bring us to a "clash of civilisations", "back to the future", to a "coming anarchy", or the "coming of empire"? Such pre-Westphalian scenarios will be the focus of the next section.

Pre-Westphalian Scenarios

The lowest common denominator of the scenarios in this perspective is that they see a decline of the importance of the sovereign state and a return to something that existed before the peace of Westphalia in 1648 — some sort of New Medievalism. If the state looses its organisational importance this means a loss of political order, since the state as form for organisation represented a step forward historically compared to the chaotic Middle Ages. At the same time, however, there was inherent in feudalism a positive and flexible dynamics, which was based on a division of power between different levels of society. Hence, Björn Hettne writes, a New Medievalism can be interpreted in negative as well as in positive terms.[341] Both possibilities will be presented in what follows.

Durable Disorder

If Liberals look forward to a more peaceful, democratic, and prosperous world, other scholars and popular commentators, anchored in Realism, paint an altogether more desolate picture of the world (dis)order in formation, characterised by conflict, chaos, and disintegration rather than security, stability, and economic development. These pessimistic scenarios draw their inspiration partly from threes classic sources: a particular reading of Classical Realist scholars like Thucydides, Machiavelli, and Hobbes; lessons learned from the Cold War; and, what they saw happening in the post-Cold War era in countries like Yugoslavia as well as in declining world regions, most notably sub-Saharan Africa. The forecast given by scholars in this camp was straightforward and pessimistic: the world was not facing a rosy future.[342]

John Mearsheimer, professor of Politics in the University of Chicago, is trained as a military historian and a Realist by theoretical inclination. He was highly critical to what he regarded as simple-minded triumphalism that swept the United States, represented by e.g. Francis

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[340] This section draws heavily on Björn Hettne, see his: *Från Pax Romana till Pax Americana: Europa och världsordningen [From Pax Romana to Pax Americana: Europe and the World Order]*, pp. 111f.

[341] Op.cit., p.108.

[342] Michael Cox: "International History since 1989", pp. 114f.

Fukuyama, and Western Europe following the end of the Cold War. In his view the newfound optimism was premised upon a major misreading of history, Cold War history in particular. The basic argument he put forward was that the Cold War had not made the world a dangerous place, but a much safer place than it was before 1945. Hence, the new world order would be less stable rather than more as a result of what had happen in Eastern Europe after 1989. His pessimistic thesis, which was neither original nor outstanding, was based on an analysis of the structure of the international society during the Cold War. Bipolarity had produced stability and order after WW II, he argued, and the collapse of it could only generate new problems, like e.g. nuclear proliferation and ethnic hate. The collapse of communism in Eastern Europe and the USSR would contribute to both problems severely.[343] As the development from Eastern Europe and the USSR descended into barbarity during the first half of the 1990s, Mearsheimer's prognosis about Europe going back to the future looked adequate indeed, a fact that was strengthen by the developments in sub-Saharan Africa, not at least the genocide in Rwanda in 1994.[344]

In 1993 Samuel P. Huntington, professor in Political Science and adviser to the American administration, published an article in *Foreign Affairs* on a coming "clash of civilisations" that will dominate the future of world politics.[345] A book entitled *The Clash of Civilizations and the Remaking of World Order* followed up the article in 1996.[346] The main argument put forward by Huntington is that world politics, after the end of the Cold War, have been reconfigured along cultural and civilisational lines. In this world the most pervasive, important, and dangerous conflicts will not be between social classes, rich and poor, or any other economically defined groups, or between political ideologies, but between peoples belonging to different cultural entities — i.e. civilisations. The inevitability of conflict, the starting point for Huntington, is, he argues, a historically proven fact. The Cold War clash of secular economic ideologies might have come to a conclusion, but this does not mean the end of conflict. They have only taken a new form, which is, he argues, best understood as clash of civilisations. This is the latest phase in the evolution in conflict in the modern world. The new conflicts in world politics would not, Huntington argues, occur within a pre-existing set of Western norms, it will instead be between the "West" and those other countries and regions in the world that does not adhere to such values as respect for individual human rights, democracy and secularism. At the heart of the new antagonisms lies identity, culture and, in extension, civilisation, this is the new fault-line in the post-Cold War world. The differences between civilisations are real and important; in fact, they are inherent. The argument is possible to conclude in one sentence, namely "the West against the Rest". The most dangerous split, however, is, according to Huntington, the one between militant Islam and the liberal democracies of the world, especially the U.S., since here it is possible to identify very real tensions between the more traditional value systems in the countries of the Middle East and those in the more modern West. Even though Huntington makes it clear in his texts that he by no means advocate this type of conflict, he has been criticised for not merely presenting a reflection of the world politics, but instead attempting to find, or even inventing, a for the American Establishment new useful enemy that would give it a role and provide justification for its continued hegemony in a post-Cold War world.[347] The current clash between the West and Islam resemble the one that took place during the fifteenth

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[343] See John Mearsheimer: "Back to the Future: Instability after the Cold War, *International Security* (1990), vol. 15, no. 1, pp. 5-56. See also, by the same author: "The False Promise of International institutions", *International Security* (1994/95), vol. 19, no. 3, pp. 5-49.

[344] Michael Cox: "International History since 1989", p.115.

[345] Samuel P. Huntington: "The Clash of Civilizations".

[346] Samuel P. Huntington: *The Clash of Civilizations and the Remaking of the World Order.*

[347] Op.cit., passim. See also, Michael Cox: "From the Cold War to the War on Terror", p. 135f; and, Michael Elliot: "When Culture Collide" (1996). The article is available on: http://www.washingtonpost.com/wp-srv/style/longterm/books/reviews/clashofcivilizations.htm. The site was visited 2004-12-20.

and sixteenth centuries, when Western Europe became the most influential civilisation (or more correct, geographical region) in the world. Huntington's argument is a powerful refutation of the Liberal standpoint from the early 1990s that the world after the end of the Cold War faced more tranquil times.

A third writer, expressing pessimism and placing Realism in the fore-font of the post-Cold War intellectual debate about the future world order, is Robert D. Kaplan. If Mearsheimer's argument was inspired by his analysis of the Cold War in Europe and Huntington's from his analysis of conflict through historical timers, Kaplan base his argument — "the coming anarchy" — on observations of the parts of the world experiencing collapse and disintegration after the end of the Cold War. Building upon the works of other scholars, Kaplan presents in an article, published in 1994, a gloomy understanding of the post-Cold War era. His basic argument is that the economic and human collapse in parts of Africa is as relevant to understand the future world order as the Balkans were a century ago, prior to the two Balkan wars and the outbreak of WW I (and WW II). The picture drawn by Kaplan is dark — not to say desperate. In his world, old structures and traditional certain ties is rapidly dissolving, producing chaos and misery, notably, however, not only, in countries like e.g. Sierra Leone and at the domestic and regional levels.[348]

This means that the Middle Ages-metaphor is not completely accurate; since the relative isolation that characterised the Middle Ages is today obsolete, local new wars have almost always a global dimension. In spite of its shortcomings, the metaphor is popular. In fact, it is not only used in a "negative" sense as done by the authors discussed above, but also in a more "positive" meaning. This is done by e.g. Hedley Bull, to whom the searchlight will be directed in the next section.

Stable Chaos

It is, Hedley Bull writes, "conceivable that sovereign states might disappear and be replaced not by a world government but by a modern and secular equivalent of the kind of universal political organisation that existed in Western Christendom in the Middle Ages".[349] Authority in mediaeval Christendom derived ultimately from God, it was believed, and the political system was basically theocratic. A return to this seems fanciful, but it is not fanciful to imagine that there might develop a modern a secular counterpart of it that embodies it central characteristics, namely "a system of overlapping authority and multiple loyalty".[350] Such an order does not necessary need to be local; in fact, it cannot be local in a globalising world.

> If modern states were to come to share their authority over their citizens, and their ability to command their loyalties, on the one hand with regional and world authorities, and on the other hand with sub-state or sub-national authorities, to such an extent that the concept of sovereignty ceased to be applicable, than a neo-mediaeval form of universal political order might be said to have emerged.[351]

Such a world order is not by necessity conflict ridden. Hence, it is possible to speak about a positive interpretation of pre-Westphalianism, which could, as done by Björn Hettne, be labelled "stable chaos". The main idea behind this scenario is that the fact that a system lacks a unified ordering principle does not automatically means that there exist no order (cf. global

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[348] Adam D. Rotfeld in the *SIPRI Yearbook 1998* (Oxford: Oxford University Press, 1998), p. 1 reproduced in Michael Cox: "From the Cold War to the War on Terror", p. 153.
[349] Hedley Bull: *The Anarchical Society: A Study of Order in World Politics*, p. 245.
[350] Ibid.
[351] Op.cit., p. 246.

governance).[352] Parallels can, but must not, be drawn to the domain of Economics, where it is believed that system equilibrium (read optimal solutions) are reached by the operation of many different agents, reacting on small changes, not possible to predict, instantly, on a free market. This position is hyperliberal to its character. Another possible parallel to draw is to what in (alternative) development theory has been labelled "empowerment", i.e. a shift from absolutism to populism. In this scenario the relative weight of the local civil society in relation to the state and the market increases. Instead of a criminal economy controlled by local warlords (as described by e.g. Robert Kaplan) or market dominance, characterised by a varying stability, the economy is informal and characterised by self-reliance.[353]

The Coming of Empire

Noam Chomsky, among others, turns the clock back even further than to the Middle Ages and describes the current world order as an American creation. It is far from being benign. The U.S. is an aggressive and ruthless hegemon whose principles always have been to make the world safe for American multinational companies (rather than democracy or something else). Even when the U.S. promotes moral policies such as democracy and human rights, something that the country does occasionally, it only does so for self-interested reasons.[354] Chomsky writes:

> … the "new interventionism" is replaying an old record. It is an updated variant of traditional practices that were impeded in a bipolar world system that allowed some space for nonalignment — a concept that effectively vanishes when one of the two poles disappears. The Soviet Union and to some extent China, set limits on the actions of the Western powers in their traditional domains, not only by virtue of military deterrent, but also because of their occasional willingness, however opportunistic, to lend support to targets of Western subversion and aggression. With the Soviet deterrent in decline, the Cold War victors are more free to exercise their will under the cloak of good intentions but in pursuit of interests that have a very familiar ring outside the realm of **enlightenment**.[355]

The U.S. is, in Chomsky's view, a revisionist state trying to transform the advantages that it currently has to a world order where they can run the world order more permanently. In fact, the U.S. is, Chomsky argues, an empire, which has convinced the world — not to mention itself — that it is not an empire, whatever its own citizens might think. The overall imperial strategy denies international law as a political goal in itself.

Neither international law nor the UN Charter is mentioned in the Bush Doctrine. Hence, that law precedes violence, which has been the strategy of American foreign policy since the end of WW II, is abandoned by the reformulated strategy. That the imperial ambitions would be expanded to cover the world after the breakdown of the only big rival is not a surprise for Chomsky. This ambition is today driven without opposition in the wake of 9/11. The terror attacks have been used skilfully to launch a political programme that have existed for more than a century, but which was not possible to realise before 9/11. The prognoses for the future is dark, however, not unavoidable. Alternatives exist. But actions must be taken, rather sooner than later, otherwise the, nightmare that we find ourselves in will be permanent.[356] Other

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[352] Björn Hettne: *Från Pax Romana till Pax Americana: Europa och världsordningen [From Pax Romana to Pax Americana: Europe and the World Order]*, p. 111.
[353] Ibid.
[354] Michael Cox: "From Cold War to the War on Terror", p. 137f.
[355] Noam Chomsky: *The New Military Humanism* (Monroe: Courage Press, 1999), p. 11.
[356] Noam Chomsky: *Hegemony or Survival: America's Quest for Global Dominance*, passim.

writers working in the same vein — in a common project entitled "The American Empire Project" — are e.g. Michael Klare, Chalmers A. Johnson and Walden Bello. [357]

Post-Westphalian scenarios

By post-Westphalian scenarios are understood arrangements that definitely goes beyond state sovereignty and are characterised by qualitatively new supranational structures. Two different scenarios can be identified, interregionalism, on the one hand, and cosmopolitanism, on the other hand.

Interregionalism

The future world order as well as the future role of the sovereign state is, Björn Hettne argues, decided by an intricate interplay between the two processes globalisation and regionalisation. In order to take back some of the political initiative from an unregulated market economy, the sovereign states feel forced to create large-scale political structures, i.e. macro regions. Hence, macro-regionalism means growing transnational structures, which are expected to be a political solution on the problems that the states are incapable of handle. Regionalism, Björn Hettne put forwards, heavily inspired by e.g. Hedley Bull, is characterised by an integration of states and other agents in larger units — i.e. regions. The development towards regional cooperation is believed to take place due to two different variables, one exogenous and one endogenous. By the former Hettne understands a multipolar development of the earlier bipolar international society and by the latter he understands a growing solidarity and stronger identity on the regional level. Regionalisation has, if it is deepening and becomes more general, structural effects on the global level. Interregionalism is a consequence of regionalism. After a period of regionalisation it becomes urgent to establish some sort of functional collaboration between different regional blocks. A completely regionalised world order can, according to Björn Hettne, be labelled "multiregionalism". [358]

The "new regionalism", Hettne's label of the current ongoing regionalisation in the word, is best understood if compared with what can be labelled "old regionalism", the type of regionalism that took place before the end of the Cold War. The old regionalism took place within a bipolar world order; it was driven from above by the U.S. and the USSR with the aim to tie countries to the two blocs dominating world politics at the time; it often had specific tasks (like e.g. security or to facilitate trade); it was, at least concerning economic issues, inward oriented and protectionist; and, it was restricted to relations between states. The "new regionalism", on the other hand, is developed within a multipolar world order; it is spontaneous, driven from within; it involves several aspects of society and leads ultimately to a regional identity — "extended nationalism"; it is less inward oriented, since the market is globalised and attempts to isolate oneself is usually punished — "open regionalism"; and, it is more extensive and complex than pure interstate collaboration. This scenario, Björn Hettne argues, is the most interesting of the different alternatives to the future world order that exists. [359] There is much, he concludes, indicating that regionalism is an important variable in

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[357] See e.g. Michael Klare: B*lood and Oil: The Dangers and Consequences of America's Growing Petroleum Dependency*; Chalmers A. Johnson: *The Sorrows of Empire: Militarism, Secrecy, and the End of the Republic*; and, Walden Bello: *Dilemmas of Domination: The Unmaking of the American Empire*. "The American Empire Project" has developed a homepage, which can be found on the following address: http://www.americanempireproject.com/index.htm. The site was visited 2005-03-31.

[358] Björn Hettne: *Från Pax Romana till Pax Americana: Europa och världsordningen [From Pax Romana to Pax Americana: Europe and the World Order]*, p. 115ff. Cf. e.g. Hedley Bull: *The Anarchical Society: A Study of Order in World Politics*, pp. 255f.

[359] Björn Hettne: *Från Pax Romana till Pax Americana: Europa och världsordningen [From Pax Romana to Pax Americana: Europe and the World Order]*, p. 119

the international political order following the end of the Cold War.[360] Hence, Björn Hettne argues in favour of an interregional scenario not only normatively, but also empirically.

More in detail, he sketches, heavily inspired by the Marxist sociologist and International Relations scholar Immanuel Wallerstein, a future world order, consisting of three "core regions", namely Western Europe, North America and East Asia.[361] Attached to and on its way to be integrated into the core regions are intermediary regions. Central Europe and the Baltic States are on their way into the EU, the post-Soviet Europe and the Southern part of Latin America are on their way to become Northern-Americanised, and South East Asia together with the coastal provinces of China is more and more integrated into the capital sphere of Japan. Among regions in the periphery, characterised by economic stagnation and internal turbulence, Hettne identifies, the non-European post-Soviet regions, the Balkans, the Middle East, parts of Latin America, South Asia, the former communist South East Asia, Mainland China, and sub-Saharan Africa (excluding South Africa).[362]

Europe, Hettne continues, is the region that most clearly illustrates the regional variable in the new world order. During the later half of the 1980s, a tendency towards a stronger European regional affinity became visible. This contributed to the ending of the Cold War. The intermediary parts of Europe, Central Europe and the Baltic States was finally integrated into the core during 2004.[363]

The North American Free Trade Association (NAFTA) ties the second core region, North America, together. NAFTA is not a region in the same sense as the EU, but instead a free trade area. But, Hettne argues, a closer collaboration is to be expected in the future. Furthermore, it can be expected that this collaboration also will include the intermediary region *Mercado Comun del Sur* (MERCOSUR), which includes Brazil, Argentine, Paraguay, and Uruguay.[364]

East Asia, the third core region, is still divided according to Cold War logics, even though this mainly is restricted to the Korean peninsula and the question about the status of Taiwan. This "region" is still not a region, except in geographical terms and to some extent in economical terms. This is, however, something that can be changed rapidly in the future, especially if Korea is reunified, if China starts to act more outward oriented, and if Japan takes a more independent position in relation to the U.S. On the intermediary level we have the Association of South East Asian Nation (ASEAN), which in the future can be linked to the core; so can also Australia and New Zealand be. The inner parts of China are to be regarded as a peripheral region, linked to the East Asian core region.[365]

The remaining peripheral regions lack a closer contact with any of the core regions. The Middle East is a region characterised by religious, ethnical and cultural tensions. Turkey is situated on the borderline between Europe and the Middle East. South Asia has for a long time been an inward oriented region. Sub-Saharan Africa is a region with many conflicts and

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[360] Op.cit., p. 140.

[361] See Immanuel Wallerstein: *The Modern World-System (vol. 1) Capitalist Agriculture and the Origins of the European World-Economy in the Sixteenth Century* (San Diego: Academic Press, 1974); *The Modern World System (vol. 2) Mercantilism and the Consolidation of the European World Economy 1600-1750* (San Diego: Academic Press, 1980); The Modern World System (vol. 3) *The Second Era of Great Expansion of the Capitalist World-Economy* (San Diego: Academic Press, 1989). See also Mikael Baaz: *A Meta-theoretical Foundation for the Study of International Relations in a Global Era: A Social Constructivist Approach*, Ch. 2; and, Stephen Hobden and Richard Wyn Jones: "Marxist Theories of International Relations", in John Baylis and Steve Smith (eds.): *The Globalization of World Politics: An Introduction to International Relations* (Oxford: Oxford University Press, 2005).

[362] Björn Hettne: *Från Pax Romana till Pax Americana: Europa och världsordningen [From Pax Romana to Pax Americana: Europe and the World Order]*, p. 142f.

[363] Op.cit., p. 143.

[364] Op.cit., p.144.

[365] Op.cit., p. 145.

development problems and is therefore, not only by Hettne but also by many other scholars (like e.g. Robert Kaplan), seen as the very symbol for the periphery of the world.[366]

With this regional world map as a relief, Hettne writes, it is possible to speak about relations between regions — interregional relations. The external relations of Europe are, due to pragmatism and variation, difficult to present in a systematic way. In spite of this, it can be concluded, that the external relations of Europe has created an interregional structure, which can stand as possible foundation for a new world order, provided that it is filled with political content. The innovative diplomatic model of the EU is based on what can be labelled interregionalism, i.e. relations where the two parties are regions rather than states (i.e. region-to-region relations). The EU has also stimulated to a more formalised regional cooperation outside Europe. It is in fact possible to speak about a European doctrine of foreign policy comparable to, however not as powerful, as the Bush doctrine (which is characterised by state-to-state relations). Hence, Europe stands for a more post-sovereign foreign policy, while the U.S. is permeated with an unwillingness to give up any national sovereignty. Europe and the U.S. have few institutionalised channels for dealing with mutual relations. The American foundational attitude is bilateral. The current American administration has, in fact, went so far as dividing between the *old* and *new* Europe and hereby tries to disaggregate the European diplomatic model, which today includes a common foreign and security policy. To conclude, it is, in spite of the obstacles discussed, possible to discern a global pattern with one Europe, containing of more or less integrated sub-regions, and a growing non-Europe, which is linked to Europe by different types of agreements and where European values are exported. Such a scenario, Hettne finalises, can be considered as a potential world order alternative.[367]

World Government

It is, Hedley Bull writes, conceivable that a form of universal political organisation might arise lacking the most essential attribute of the Westphalian order, the sovereign state, entirely. One way in which this might occur is through the emergence of a world government. Such a world government can come about either by conquest or by content.

The conquest option is possible through what John Strachey has called a "knock-out tournament" among the great powers. In this case it would be a universal empire based upon the domination of the conquering power. There has never been any world government, but there has been (often) been a government supreme over much of what those subjected to it was known the known world. The most familiar and successful example is the Roman Empire. Other attempts, however unsuccessful ones, in this category are the projects of domination staged by Louis XIV in the seventeenth century, Napoleon in the nineteenth century, and Adolf Hitler in the twentieth century.

In the content case, however, a world government is realised not by force, but as a consequence of some sort of social contract among states, Hedley Bull argues, and thus it would be some sort of universal republic or *cosmopolis*. Such a republic can be thought of either as a product of some catastrophe, like for example a global war or an ecological breakdown, or as a product of a functionally and gradually increase of the powers of the UN.[368] Arguments in favour of a cosmopolitan world order dates back at least to Immanuel Kant. There is, however, Hedley Bull writes, "not the slightest evidence that sovereign States in this century will agree to subordinate themselves to a world government founded upon consent".[369]

A cosmopolitan order does not necessarily need to be an elite project, on the contrary. A cosmopolitan order can rest upon a global ethics, founded not on international institutions or

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[366] Op.cit., pp. 145f.
[367] Op.cit., p. 153.
[368] Hedley Bull: *The Anarchical Society: A Study of Order in World Politics*, p. 244.
[369] Op.cit., p. 252.

organisations, but on a growing "global civil society". Richard Falk sees an increased role for non-territorial agents on the global level, not only participating in but also pursuing "global governance". He takes the development of human rights during the 1990s as a pretext for that we actually sees the growth of a global civil society, global governance, and, in extension, the establishment of a world government.[370] Other cosmopolitan approaches, envisaging a world order in which all individuals are respected, than the one presented by Falk have flourished during the post-Cold War era.[371]

<p style="text-align:center">* * *</p>

By this, a number of alternative scenarios, reaching from unipolarity to multipolarity, from multilateralism over plurilaterlsim to uniltaralism, from state sovereignty to empire, from legality to anarchy, from celebration to despair, et cetera have been presented. Before these scenarios are used trying to understand what the future world order would look like, we have to deal with what has happened in the world after 9/11 2001. This is the topic in the next chapter.

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[370] See e.g. Richard Falk: "A New Paradigm for International Legal Studies", *Yale Law Journal*, vol. 84 (1975); and, Richard Falk: *Human Rights Horizon: The Pursuit of Justice in a Globalizing World* (New York: Routledge, 2000).

[371] See e.g. David Held: *Democracy and the Global Order: From the Modern State to Cosmopolitan Governance* (Cambridge: Polity Press, 1995); and, David Held: "Cosmopolitanism: Ideas, Realities, Deficits", in David Held and Anthony McGrew (eds.): *Governing Globalization* (Cambridge: Polity Press, 2002)

The Watershed: 9/11and The Great Terror War

The aim of the two remaining chapters of the essay is trying to describe what actually has happened in the world the last years in order trying to "evaluate" the different scenarios described above. In this chapter I present what has happened in the world since the 9th of September 2001 and in the next chapter the scenarios are "evaluated" in the wake of the events described in this chapter.

On the 11th September 2001, at 8.45 a.m. (local time), a hijacked passenger jet, American Airlines Flight 11 out of Boston, Massachusetts, crashes into the north tower of World Trade Center, New York, tearing a gaping hole in the building and setting it afire. Eighteen minutes later, a second hijacked airliner, United Airlines Flight 175, crashes into the south tower of the World Trade Center and explodes. Both buildings are now burning. At 9:30 a.m. President George W. Bush, speaking in Sarasota, Florida, says that the U.S. has suffered an "apparent terrorist attack". Another thirteen minutes later (9:43 a.m.) American Airlines Flight 77 crashes into the Pentagon. At 10:10 a.m. United Airlines Flight 93, also hijacked, crashes in Somerset County, Pennsylvania, southeast of Pittsburgh. Approximately 3.000 persons were killed this Tuesday morning.[372] The long-term implications of these terror attacks, not at least regarding American foreign policy and the world order, have been, and will continue to be in a foreseeable future, tremendous.

Before 9/11, Michael Cox argues, scholars of international relations and international law generally thought of the world after the fall of communism in terms of what it was not and what it came after — and what it was not, and what it came after, most obviously, was the Cold War. Hence, the period was referred to as the post-Cold War era. This negative characterisation was so powerful indeed, that the image or images that stuck in the minds of analysts and practitioners of international relations for many years were those inspired by the events of 1989 in Eastern Europe, to be followed two years later by the breakdown of the USSR. This has now changed completely, and with minor exceptions, most writers now tend to view this period less in its own terms and increasingly through the prism of the attack on the Twin Towers and Pentagon and the events they unfolded, beginning with the massive military response against the Taliban regime in Afghanistan (in October 2001) by the American administration, followed just over a year later by its highly controversial attack on Iraq.[373]

The occurrences of 9/11 gave way to widespread governmental solidarity and support for the U.S. Already the day after the terror attacks towards the U.S. the UN SC adopted resolution 1368. The resolution condemns the attacks in the strongest terms and express that such acts as well as any act of terrorism is criminal and unjustifiable, regardless of their motivation. Furthermore, the UN SC acknowledges the American right to self-defence in accordance with Art. 51, the UN Charter.[374] This is, as we know, the first time ever that the SC connects international terrorism with the right to self-defence. The attitude of the UN SC regarding international terrorism is further expressed in resolution 1373 (issued on the 28th of September 2001). [375]

In the days following 9/11, American intelligence services identified Osama bin Laden, a Saudi millionaire living in exile in Afghanistan, as the mastermind behind the attacks. On the

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[372] See: http://archives.cnn.com/2001/US/09/11/chronology.attack; and, http://vikingphoenix.com/news/stn/2003/911casualties.htm. The sites were visited 2005-01-04.

[373] Michael Cox: "From the Cold War to the War on Terror", p. 132.

[374] The resolution can be found on: http://www.un.org/News/Press/docs/2001/SC7143.doc.htm. The site was visited 2005-01-04.

[375] The resolution can be found on: http://www.state.gov/p/io/rls/othr/2001/5108.htm. The site was visited 2005-01-04.

20th of September, President George W. Bush spoke before a Joint Session of Congress and outlined America's response to the events of 9/11. In the speech, televised live around the nation and the world, Bush announced that "our war on terror begins with al-Qaeda [the terrorist network associated with bin Laden], but it does not end there. It will not end until every terrorist group of global reach has been found, stopped, and defeated."[376]

Less than three weeks after Bush's speech, American forces, on the 7th of October, attacked Afghanistan in order to capture bin Laden and overthrow Afghanistan's Taliban government, which had long aided and abetted bin Laden and other terrorists. The attack against Afghanistan was reported to the SC as an act of self-defence. Although bin Laden's whereabouts and fate were unknown at the beginning of 2005, the American campaign in Afghanistan succeeded in toppling the Taliban from power and inflicting major damage on bin Laden's terrorist network. With American support, a new pro-Western government was installed in Afghanistan in early 2002. In early 2005, "democratic" elections were held in the country.

Despite the resolutions from the SC and the NATO invocation of Art. 5, the Bush administration largely shunned offers of help from its allies, with the notable exception of Britain and Australia, in waging the military campaign against Afghanistan.[377] This can be seen as an indication of what to come.

The Afghanistan case can be considered as a reinterpretation of the right to self-defence, from a restrictive to a more extensive understanding of the right. From the reinterpretation follows that states has a right to self-defence against large-scale terror attacks (i.e. megaterrorism), both against the terrorists in question as well as the states harbouring them. The reinterpretation also means, on the one hand, that the right to self-defence is stretched in time, well beyond the end of the attack, and, on the other hand, a right to pre-emptive self-defence, i.e. an attack initiated when another country is clearly about to attack. Interesting to note is that a majority of the international society accepts the extensive reinterpretation regarding the right to self-defence in cases of large-scale terrorist attacks.[378] Hence, we can see a change in international law, from a more restrictive interpretation of the right to self-defence to a more extensive reinterpretation, or at least an understanding for a more extensive interpretation of the right to self-defence.

Above I indicated that 9/11, among other things, led to a change, or maybe more correct a revolution, in American foreign policy. It did indeed. But the worldview that drove this change existed long before the planes crashed into the Twin Towers and Pentagon. President Bush outlined its main ideas while he was campaigning for the white house in the year 2000, and he began implementing parts of it as soon as he took the oath of office in early 2001. What 9/11 provided were the rationale and the opportunity to carry it out in full.[379]

The question of if and how the U.S. should engage in the world is as old as the country itself. President George Washington's vision was to trade with Europe but to otherwise stand apart. This vision — isolationism — became the cornerstone in the new nation's foreign policy. With the Spanish-American War in 1898, and the Theodore Roosevelt corollary to the Monroe Doctrine (adopted in 1823), internationalists for the first time ever triumphed over isolationists in the struggle to define the national interest of the U.S. In 1913, Woodrow Wilson took office. Even though he was determined to concentrate on domestic concerns, he is

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[376] The complete speech can be found on: http://www.britannica.com/eb/article?tocId=9398253. The site was visited 2005-01-04.

[377] Ivo H. Daalder and James M. Lindsay: *America Unbound: The Bush Revolution in Foreign Policy* (Washington, D.C.: Brookings Institution Press 2003), p. 81.

[378] Katinka Svanberg Torpman: *Folkrätten och våldsförbudet — När är våld tillåtet? [International Public Law and the Prohibition of Violence — When is Violence Permitted?]*, pp. 26f.

[379] Ivo H. Daalder and James M. Lindsay: *America Unbound: The Bush Revolution in Foreign Policy*, p. 13; and, George Soros: *The Bubble of American Supremacy* (London: Widenfeld and Nicolson, 2004), pp. 35f.

remembered for his foreign policy legacy.[380] In 1917, Wilson brought the U.S. into a European war. The U.S. declared war on Germany, not because Germany endangered American interests, but because the world was to be "made safe for democracy".[381] Wilson's commitment to a world in which democracy could flourish was, Ivo H. Daalder and James M. Lindsay argues, by itself revolutionary. Equally revolutionary, however, was Wilsons's belief that the key to creating such a world lay in extending the reach of international law and building international institutions.[382] The Senate, as we know, rejected the Treaty of Versailles (1919) and the U.S. never joined the League of Nations. Isolationism once again triumphed.

The U.S. did not take part in WW II until December 1941, more than two years after the German attack on Poland. Most Americans were during the first years of the war convinced that there was no need to act. The Japanese attack on Pearl Harbor on the 7th of December 1941, leaving 2.403 dead behind, however, changed this opinion, and the U.S. entered the war. After the war, America dominated the world as no nation had ever done before. Hence, the foreign policy questions the U.S. faced after the war had little to do with what the country could do abroad, but what they should do abroad. The answer was the Truman Doctrine, the Marshall Plan, and NATO, all characterised by a blend of power and co-operation.

During the 1990s, with the demise of the USSR, those who have emphasised international institutions and international law lost the trump card they had for several decades held over those who favoured a unilateral exercise of American power. Hence, the foreign policy debate of the 1990s seemed to resemble the debate between isolationists and internationalists frequently present in the American history of foreign policy. But to characterise the debate along this dividing-line is a mistake. The real debate was, according to Ivo H. Daalder and James M. Lindsay, not *whether*, but *how* the U.S. should engage the world. The Clinton administration in most ways represented a continuation of the traditional Wilsonian approach of building a world order based on the rule of law. Clinton's opponents criticised his foreign policy on numerous grounds. The most profound criticism was, however, that he failed to recognise that, with the demise of the USSR, the U.S. had the freedom to act as it saw fit. In short, the U.S. could fashion its own foreign policy. The U.S. could and should be *unbound*.[383]

George W. Bush delivered what Clinton's opponents had urged. His foreign policy was based on two beliefs. First, in order to ensure America's security it was necessary to discard the constraints imposed by friends, allies, international institutions, and international law. Second, an America unbound should use its power to change the status quo of the world. In short, the U.S. should aggressively go abroad searching for enemies to destroy. Hence, American foreign policy should henceforth be unilateral, not just pre-emptive but preventive, and produce regime change in so-called rouge states.[384] To conclude, what made the Bush administration's (proposed) foreign policy different were not its goal but its logic about how the U.S. should act in the world to achieve its goal. It rejected several of the principles that had guided America's approach to international relations for more than fifty years. The new approach, known as "Neo-conservatism", is, simply put, based on Realism, more specifically on hegemonist ideas (i.e. a belief in that the world is a dangerous place; that it is Hobbesian; that globalisation is undercutting the authority of individual states; that if America leads, others will follow; that

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[380] Op.cit., pp. 3ff.

[381] Woodrow Wilson: "Address to Congress", *Congressional Record*, the 2nd of April 1917, p. 120. On the 3rd of February 1917, President Wilson addressed Congress to announce that diplomatic relations with Germany were severed. In a Special Session of Congress held on the 2nd of April 1917, President Wilson delivered his "War Message". Four days later, Congress overwhelmingly passed the War Resolution, which brought the United States into the Great War. See: http://www.lib.byu.edu/~rdh/wwi/1917/wilswarm.htm. The site was visited 2005-03-30.

[382] Ivo H. Daalder and James M. Lindsay: *America Unbound: The Bush Revolution in Foreign Policy*, pp. 6f.

[383] Op.cit., pp. 8ff.

[384] Op.cit., pp. 13f.

multilateral agreements and institutions are neither essential nor necessarily conducive to American interests; and, that the U.S. is a unique great power and others see it as such).[385] The ultimate goal is to transfer the unipolar moment into unipolar era, by precluding "the emergence of any potential future global competitor".[386]

During his first eight months in office George W. Bush did not unveiled any new foreign policy initiatives, but focused on extracting the U.S. from existing ones, like the Kyoto Protocol, the comprehensive Test Ban Treaty, and the International Criminal Court (ICC). George W. Bush's unilateral approach to foreign policy became in the immediate wake of 9/11 arch-unilateralist. In fact, he became a crusading internationalist. The war on terrorism became the defining mission of his presidency.

This was, as argued above, not the only option available for George W. Bush. After 9/11 the growing difference dividing the USA from its allies and friends before 9/11 discussed above gave, way to widespread solidarity, not only by NATO, but also the states in the UN SC as well as majority of states in the GA. Hence, the possibility to institutionalise a genuine multilateral order, based on, a collective geopolitical analysis, international law, and with participation of a majority of the states in the international society as well as transnational agents in the processes of decision and implementation, was even better than after the end of the Cold War. The Bush administration responded to this challenge by presenting a reformed security policy doctrine, developed by thinkers such as Paul Wolfowitz and Richard Perle and supported by writers like Charles Krauthammer and Robert Kagan (the Bush Doctrine), allowing preventive actions when it is demanded by the American security interest.[387]

The Afghan war, as argued, enjoyed extensive international governmental support; the widespread willingness internationally to participate in military operations reflected the legality/legitimacy of America's cause in Afghanistan.[388] But, just as many countries had been

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[385] Op.cit., Ch. 3. The "godfather" of neo-conservatism is Irving Kristol (who as youth was a devoted Trotskyite). He has defined a *neoconservative* as "a liberal who was mugged by reality". Today, the neoconservatives are in the spotlight because of the influence of William Kristol, Paul Wolfowitz, Richard Perle, and others. Their influence is primarily in the area of foreign policy and military affairs, not economic policy. This constitutes a major shift in neo-conservatism's focus. What began a generation ago as an academic protest against failed and failing bureaucratic experiments by the Federal government has shifted to a concern about expanding democracy through American military intervention, especially in the Middle East. Gary North: "An Introduction to Neoconservatism" (2003). The article is available on: http://www.lewrockwell.com/north/north180.html. See also Michael Tennant: "Neoconservatism Made Kristol Clear" (2003). The article is available on: http://www.strike-the-root.com/3/tennant/tennant3.html. The sites were visited 2005-03-30.

[386] In the wake of the disappearance of the overarching strategic threat posed by the former USSR, how should the foreign policy of a country that had suddenly become the global hegemon be defined? How narrowly or broadly should the national interest of the U.S.? It was in relief to these questions that Charles Krauthammer first articulated the idea of American unipolarity. In the winter of 1990/91, he wrote in *Foreign Affairs* of the "unipolar moment" that arise after the end of bipolarity; in the Winter 2002/03 issue of *The National Interest*, he expanded the scope of his idea by arguing that "the unipolar moment has become the unipolar era"; and, in February 2004, he gave a speech at the annual dinner of the American Enterprise Institute in which he took his earlier themes and developed the ideas further, in the aftermath of the Iraq War. He defined four different schools of thought on foreign policy: "Isolationism", "Liberal Internationalism", "Realism", and his own position that he defined as "Democratic Globalism", a kind of muscular Wilsonianism — minus international institutions — that seeks to use U.S. military supremacy to support U.S. security interests and democracy simultaneously. Francis Fukuyama: "The Neoconservative Movement*", National Interest* (2004). The article is available on: http://www.findarticles.com/p/articles/mi_m2751/is_76/ai_n6127311. The site was visited 2005-03-30.

[387] Björn Hettne: *Från Pax Romana till Pax Americana: Europa och världsordningen [From Pax Romana to Pax Americana: Europe and the World Order]*, pp. 162ff.

[388] Noam Chomsky: "Terror and Just Response", *The Institute for Policy Research and Development* (2002). The article is available on: http://globalresearch.org.view_article.php?aid=440918059. The site was visited 2004-04-21.

wrong regarding the belief that the American foreign policy after 9/11 would shift in a multilateralist direction, so they were wrong in their belief and hope that the Bush administration's strategy of starting war with Afghanistan would stop with Afghanistan. It did not. In retrospective this is not surprisingly. Already on the 20th of September, President Bush declared, as quoted above, that "our war on terror begins with al-Qaeda, but it does not end there. It will not end until every terrorist group of global reach has been found, stopped and defeated".[389]

The fullest elaboration so far, of the new American strategy for defeating international terrorism, tyrants, and weapons (or technologies) of mass destruction is given in the *National Security Strategy of the United States of America*. The most controversial point in the Bush Doctrine was the move away from the earlier doctrine of containment to the new doctrine of pre-emption, or more correct prevention.[390] The Bush strategy suffers from conceptual confusion, it conflates the concept of pre-emptive and preventive attacks. Pre-emptive attacks are, as we know, initiated when another state is clearly about to attack, while preventive attacks are launched by states against others before the state being attacked pose a real or imminent threat. Israel's decision to go to war in 1967 against the surrounding Arab countries is a classic example of a pre-emptive attack, while Israel's attack against the Osirak reactor in Iraq is an example of a preventive attack. Pre-emptive attacks have a long recognised standing in international law as a legitimate form of self-defence. Preventive attacks have not. Much of rhetoric presented by the Bush administration is consistent with preventive attacks, not pre-emptive ones.

If al-Qaeda had not launched the devastating attacks on the 9th of September 2001, Iraq would most likely have remained a secondary issue in American foreign policy. Before the attacks the strategy towards Iraq was containment. The only one in the Bush administration deeply concerned about Iraq before 9/11 was Paul Wolfowitz. So he had been for more than twenty years.[391] He, however, gained little traction in the first eight months of Bush's tenure. All that changed after 9/11. In the weeks after the attack the administration's attention was on Afghanistan and Osama bin Laden. But once the Taliban was overthrown, attention swiftly turned to Iraq. Even if Bush publicly insisted on resuming inspections in Iraq, he secretly was preparing for a confrontation with Saddam Hussein. The question was if the confrontation

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[389] George W. Bush: "Address to a Joint Session of Congress and the American People", Washington, D.C., the 20th of September 2001. See http://www.whitehouse.gov/news/releases/2001/09/print/20010920-8.html. The site was visited 2005-01-05.

[390] See *The National Security Strategy of the United States of America*, September 2002, p. 6.

[391] Dr Paul Wolfowitz is an American political advisor and United States Deputy Secretary of Defence. He is a neoconservative and Straussian known for his "hawkish" views, passionate pro-Israel advocacy and staunch support for the invasion of Iraq in 2003. Wolfowitz has earlier been a military analyst under Ronald Reagan as well as a leading participant in the "Project for the New American Century" (PNAC), a think tank that was formed in 1997 during the Clinton presidency. Among other things, the think tank expressed a new foreign policy with regard to Iraq and other potential aggressor states. They dismissed "containment" in favour of "pre-emption" (or more correct, prevention) and advocated the use of force in Iraq to protect the U.S. interests in the Gulf, as evidenced by the 1998 PNAC Letter to President Bill Clinton. Clinton, along with George H. W. Bush, Colin Powell, and other former Bush administration officials, dismissed calls for "pre-emption" in favour of continued "containment". This was the policy of George W. Bush as well for his first several months in office. Many saw Wolfowitz's plan as a blueprint for US hegemony and his "pre-emption" policy remained contained until the terrorist attacks of the 11th of September revived hawkish advocacy for defence through pre-emptive action. Following the terrorist attacks of 9/11 a debate began within the White House as to the degrees of action to take against al-Qaeda. Certain members of President Bush's cabinet, led by Wolfowitz, advocated pre-emptive strikes against Iraq alongside those against terror cells in Afghanistan. Out of this came the creation of what would later be dubbed the Bush Doctrine, centring on pre-emption and a broad-based anti-terrorism campaign. This section is based on the following sites found on the Internet: http://en.wikipedia.org/wiki/Paul_Wolfowitz; http://rightweb.ircronline.org/ind/wolfowitz/wolfowitz.php; and, http://www. defenselink.mil /bios/depsecdef_bio.html. The sites were visited 2005-03-30.

needed to be sanctioned by the UN SC or not. Individuals close to Bush held opposite views regarding this. Collin Powell argued that Bush should go to the UN and seek international backing for a vigorous inspection regime and use force only if Saddam Hussein refused to turn over his weapons of mass destruction. Vice-President Dick Cheney held the opposite view, and argued in favour of using force immediately. Brent Scowcroft, the older Bush former national security adviser, strongly argued in favour of the Powell line; he said, that "an attack on Iraq at this time would seriously jeopardize, if not destroy the global counterterrorist campaign we have undertaken".[392] Bush decided to take Powell's route to Cheney's goal. Hence, the U.S. had decided to work through the UN rather than to act unilaterally. This choice ultimately, after intense negotiations, led to the adoption of SC resolution 1441 on the 8th of November 2002, demanding full, immediate, and active collaboration by the Iraqi government with the UN arms inspectors in accordance with SC resolution 687 (1991). If the Iraqi government did not approve they risked facing serious consequences. Five days later Iraq, reluctantly, announced that they should follow the resolution.[393] The first inspection was carried out on the 27th of November. SC resolution 1441 further demanded that Iraq should give an up-to-date, exact, full, and complete report regarding all aspects of its programme for weapons of mass-destruction within 30 days. If not, they could face serious consequences, a euphemism for armed attacks.[394]

One moth after the passing of the resolution, Baghdad delivered a 12.000-paged declaration on its banned weapons programme. The declaration did not met the standards set by SC resolution 1441; it was neither currently accurate, nor full and complete. In the mind of the Bush administration, war appeared inevitable. But few other countries shared this view; a false declaration was not enough to launch armed attacks. Hans Blix criticised Baghdad's halting cooperation in his first report to the SC on the 19th of December 2003 since the inspections had started. Four days after Hans Blix's report, George W. Bush and Tony Blair met at the White House. Blair pressed for the introduction of a second resolution. Bush declined. In retrospect this was a mistake, since after Blix's criticism Baghdad shifted its behaviour; their willing to cooperate improved substantially. Simultaneously the Americans intensified their military presence in the Persian Gulf. On the 24th of February the U.S., the UK, and Spain introduced a second resolution declaring that Iraq had failed to meet its obligation. Luke warm negotiations followed. The U.S. showed little interest in being flexible, the country wanted to attack Iraq. On the 6th of March, George W. Bush said, "No matter what the whip count is, we're calling for the vote. We want to see people stand up and say what their opinion is about Saddam Hussein --- It's time for people to show their cards, to let the world know where they stand when it comes to Saddam."[395] But it was to late. A, second resolution was not to fail only because of a French and (likely) Russian veto; there was, in fact, not even a majority for Bush and Blair to claim a moral victory, i.e. only a minority of the fifteen members of the SC would vote in favour of attacking Iraq. In consequence, the leaders of the U.S., UK, and Spain held a summit in the Azores (a small islands in the Atlantic) on the 16th of March and three days later the three countries attacked Iraq, without the explicit backing of the UN SC.

It was not indifferent to the Bush administration if they had backing or not to attack Iraq from the SC. A backing would have been welcomed, Hans Blix writes, but the administration did not wanted to be dependent on an affirmative decision by the SC. Legally the U.S. was

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[392] Brent Scowcroft: "Don't Attack Saddam", *Wall Street Journal*, the 15th of August 2002. The article is available on://www.opinionjournal.com/editorial/feature.html?id=110002133. The site was visited 2005-03-30.

[393] Hans Blix: *Avväpna Irak [Disarming Iraq]*, pp. 92ff.

[394] Op.cit., pp. 98ff.

[395] George W. Bush: "President Discusses Iraq in National Press Conference", Washington D.C., the 6th of March 2003. See: http://www.whitehouse.gov/news/releases/2003/03/20030306-8.html. The site was visited 2005-01-07.

preparing to defend a unilaterally initiated attack. The official position was that an armed attack did not require any acknowledgement from the SC.[396]

In the first place, Iraq had, the American administration pointed out, violated numerous UN SC resolutions, some of them, especially SC resolution 1441 together with resolutions 687 and 678, was authorising the U.S. to intervene military. This opinion was inconsistent by the opinions held by several other countries, not at least the opinion held by France (a permanent member of the SC). Resolution 678 authorises the use of violence to liberate Kuwait. But it does not contain any parts supporting disarmament of Iraq. In resolution 687 the peace terms are stipulated. Indeed this resolution contains demands on extensive weapon inspections. But, it does not legitimise the use of violence in the case that Iraq does not fulfil its obligations. Finally, in resolution 1441 it is concluded, as argued above, that Iraq has offended resolution 687 and that the country runs the risk to experience serious consequences if the demands placed on the country is not fulfilled immediately, unconditionally, and actively. This is indisputable. But, there exist no final end for Iraq to fulfil the demands. Nor does the SC give anybody than itself mandate to interpret what is understood by serious consequences or the mandate to any state or coalition of states to attack Iraq on the ground that the country does not fulfil the demands in resolution 1441.

In the second place, an attack against Iraq, it was argued, was in accordance with Art. 51, the UN Charter. It was not necessary for the U.S. to sit passively until Iraq was ready with all preparations to attack America, the Bush administration argued. The attack should be regarded as pre-emptive. But, the attack was not pre-emptive. It was preventive, with the ultimate goal to bring about the fall of Saddam Hussein and to deter other countries to continue their development of nuclear weapons. The actions taken thereby violate *the* international law.[397]

Taking into consideration the weak international support it is neither possible to argue that the attack was legitimate, as in the Kosovo case. The attack was unilateral, preventive, and deterring, since it intended to send a message to other states considered being parts in the "axis of evil". The message was clear: collaborate or face considerable consequences. The attack on Iraq constitutes the first application in practice of the Bush Doctrine. In his speech, on the 1st of May 2003, declaring the end to the Iraqi war, George W. Bush, said: "any out-law regime that has ties to terrorist groups and seeks or possesses weapons of mass destruction is a grave danger to the civilized world — and will be confronted".[398] Then, the question is, who is next?

Bush as well as other senior administration officials left very little doubt which states they have in mind. First there are the two remaining members of the axis of evil, Iran and North Korea, then there are states such as, Syria, Libya, Burma, Zimbabwe, Iran, Cuba, and Belarus (considered as the "junior varsity axis of evil" or the "outposts of tyranny).[399] Every single one of these regimes will, in one way or another, be confronted. So far Syria, Libya, and North Korea, has, more or less, responded positively to American pressure. Iran, North Korea, and

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[396] Hans Blix: *Avväpna Irak [Disarming Iraq]*, pp. 147ff.

[397] See Katinka Svanberg Torpman. "Angreppskriget är olagligt [The War of Attack is illegal]", *Svenska Dagbladet*, 2004-04-21. The article is available on: http://www.svd.se/dynamiskt/Brannpunkt/ did/_5066181. The site was visited 2005-01-13.

[398] George W. Bush: "President Bush Announces Major Combat Operations in Iraq Have Ended", Remarks by the President from the USS Abraham Lincoln at sea off the coast of San Diego, California, the 1st of May 2003. See http://www.whitehouse.gov/news/releases/2003/05/iraq/20030501-15.html. The site was visited 2005-01-07.

[399] See Steven R. Weisman: "U.S. Threatens to Impose Penalties against Syrians", *New York Times*, the 15th of April, 2003, p. B3. The article can be found on http://www.globalpolicy.org/wtc/targets/2003/ 0415penalties.htm. The site was visited 2005-01-07. See also BBC News: "Rice names 'outposts tyranny'". The article is available on: http://news.bbc.co.uk/1/hi/world/americas/4186241.stm. The site was visited 2005-03-30.

Cuba are today key issues in American foreign policy, very much in focus for the reinstalled president.

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To conclude, the Bush revolution in foreign policy implies a radical change in the international system. It implies, at least indirectly, that the U.S. dissociate itself from the modern world order that has, in one way or another, governed international relations since the Peace of Westphalia (1648). This agreement, which closed the Thirty Year's War, acknowledged the absolute sovereignty of states and their legal equality as the very foundation for the world order. The principals regarding sovereignty and equality have been acknowledged generally ever since, even if violations against them have occurred often. There has been a consensus among governments and lawyers for more than 350 years that if the national sovereignty is not accepted as the foundation for the international order and the international law the world faces anarchy, and in extension a *bellum omnium contra omnes.*

Then, what is the long-term significance of the reformulated American foreign policy strategy? Henry Kissinger once asked the Chinese Prime Minister Zhou En-lai (noted for his leading role in that nation's Communist Revolution) what he thought of the significance of the French Revolution of 1789. He replied "It's too soon to tell."[400] The same could be said regarding the "American revolution in foreign policy" carried out by the Bush Administration. In spite of the "warning" given by Zhou En-lai, I will try to say something about the new American approach in foreign policy, especially the view of using violence, and its possible effects on the future world order. This discussion is carried out in next, and final, chapter of this essay.

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[400] See http://www.anecdotage.com/index.php?aid=1411. The site was visited 2005-01-07.

The Future World Order

> Americans are from Mars and Europeans from Venus: They agree on little and understand one another less and less. And this state of affairs is not transitory — the product of one American election or one catastrophic event. The reasons for the transatlantic divide are deep, long in development, and likely to endure.[401]

The aim of this final chapter of the essay is trying to "evaluate" the different scenarios discussed in chapter eight and identifying possible trends regarding the future world order as well as giving some constructive suggestions of what can be done different in order to realise a *(just) legalistic neo-Westphalian multilateral world order*, the normative point of departure for this essay, given the fact that the world looks the way it does.

Above I have argued that huge opportunities were left in the wake of 9/11. Most of the world was ready and willing to accept American leadership. George W. Bush had probably the largest field of manoeuvre available to any president since the Japanese attacks on Pearl Harbor in 1941. The Bush administration could have generated a cohesive political force of a kind that had not been seen since the Cold War. The day after the attack, at a special meeting, the North Atlantic Council invoked article 5 of the NATO Charter for the first time in the alliance's history, calling on all member states to treat the terrorist attack on the U.S. as an attack on their own soil.[402] Two days later, on the 13th of September 2001, *Le Monde*, the French newspaper, declared on the lead headline: "We are all Americans". This must be considered a declaration of solidarity in strong terms from a very unlikely source. In seizing the opportunity Bush and his administration could have done a lot to make the world a better place.[403] Before dealing with the question of what choices the Bush administration made and thereby starting to frame the future world order, something should be said about what the world looked liked in general, in analytical terms, when the American administration faced their historical moment.

Over the last three decades, the sheer scale as well as the scope of globalisation (simply understood as the widening, deepening, and speeding up of worldwide interconnectedness) has become increasingly evident in every sphere of society, from the economic and political to the cultural. Globalisation denotes a shift in the scale of social organisation, the emergence of the world as a shared social space, the relative deterritorialisation of political, economic, and social activity as well as the relative denationalisation of power.[404] Globalisation, it has been argued, will burry the Westphalian ideal of sovereign statehood.[405] But, the opposite argument has also

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[401] Robert Kagan: "Power and Weakness", *Policy Review* (2002), no 113. The article was downloaded from the Internet, see: http://www.policyreview.org/JUN02/kagan_print.html. The site was visited 2004-04-11.

[402] See the North Atlantic Treaty (1949). The document is available on: http://www.nato.int/docu/basictxt/treaty.htm. The site was visited 2005-01-04. The content of article 5 read as follows: "The Parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all and consequently they agree that, if such an armed attack occurs, each of them, in exercise of the right of individual or collective self-defence recognised by Article 51 of the Charter of the United Nations, will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, such action as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area".

[403] Cf. John Newhouse: *Imperial America: Bush Assault on the World Order* (New York: Vintage Books, 2004), p. 3; and George Soros: *The Bubble of American Supremacy*, p. 23.

[404] Anthony McGrew: "Globalization and Global Politics", in John Baylis and Steve Smith (eds.): *The Globalization of World Politics. An Introduction to International Relations* (Oxford: Oxford University Press, 2005), p. 20ff.

[405] See e.g. Björn Hettne: *Från Pax Romana till Pax Americana: Europa och världsordningen [From Pax Romana to Pax Americana: Europe and the World Order]*, p. 174.

been put forward, namely that globalisation not will survive in the aftermath of 9/11.[406] Both positions seem to be highly exaggerated. Globalisations has proved more robust in the aftermath of 9/11 than the sceptics recognise, but it has not, by no means, buried the ideal of sovereign statehood.

Globalisation is not some process over and above the activities of states, but is instead an element within state transformation. Globalisation does not make the state disappear, but is a way of thinking about its present form. By extension, using the same logic, globalisation does not make redundant any notion of world order but instead requires us to think about a globalised world order, i.e. a notion of world order that is based on a membership of globalised states.[407] Globalisation must be understood as an expression of the profound transformations in the nature of the state as well as in the international society, that have developed since the sixteenth century. The state is not demising or retreating, but is changing functionality. States still exist, but they (will do) different things, do some things less well (than they used to), but have also taken new responsibilities in change. Hence, in an age of globalisation, there remain both states and an international society — i.e. what we have is *world order of globalised states*. This world order will, however, have different norms and rules in recognition of the new nature of states and their transformed functions. Rules of sovereignty and non-intervention for example, are undergoing change as symptoms of this adaptation.[408] This development has been obvious regarding the new practice of humanitarian interventions as well as the above-discussed reinterpretation of the right to self-defence.

To summarise, currently the identity of states is undergoing considerable change, turning into so-called globalised states. But these globalised states still coexist within a world order, albeit one that differs from its recent historical forms. This order is currently seeking to develop a set of principles to reflect this transformation, Simultaneously, the only remaining superpower, the U.S., tries to identify its role in this new order. The quest for a post-Cold War order is the expression of this uneasy search.

This was the situation President Bush and his administration faced the days after 9/11 — a day that generally agreed changed the course of history (once again). Admittedly, the terrorist attack was a historic event in its own right, but it did not, I believe, change the course of history. What might have changed the course of history, however, is how the American administration responded to the attack. President Bush, as we know, declared war on terrorism and under that guise carried out a (neo-conservative) revolution in American foreign policy that predated the tragedy of 9/11 with the ultimate aim of making American supremacy permanent. Hence, the Bush administration exploited the terrorist attack for its own purposes; the administration used the war on terrorism to pursue its dream of American supremacy. That is how 9/11 changed the course of history.

On the 11th of September 2001, the U.S. was the victim of a terrible crime and the whole world expressed spontaneous and genuine sympathy. The military operation towards Afghanistan was justified by its role as the home base of al-Qaeda. It was approved by the UN and had support from the international community. Since then, the proclaimed war on terrorism has claimed more innocent civilians in Afghanistan and Iraq than have the attacks on the World Trade Center. Furthermore, since the U.S. initiated the great war on terror, the world public opinion has turned sharply against the country. Only a year after 9/11, the U.S. could not secure a resolution authorising the invasion of Iraq. In fact, a large majority of the world opposed the war in Iraq.

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[406] Anthony McGrew: "Globalization and Global Politics", p.

[407] Cf. Ian Clark: "Globalization and the Post-Cold War Order", in John Baylis and Steve Smith (eds.): *The Globalization of World Politics. An Introduction to International Relations* (Oxford: Oxford University Press, 2005), p. 739.

[408] Op.cit., p. 739f.

The true motives for President Bush's determination to overthrow Saddam remain shrouded in mystery. It has been put forward that Iraq was a showcase, a demonstration that it is the U.S. that sets the international agenda; that it had to do with oil; that it had to do with Israel and the second coming of the Messiah (a large number of Christians in the U.S. believe that the rebirth of Israel presages the apocalypse and therefore Israel has a strong support from the evangelical right, which is the core of the President's constituency), et cetera.

Even if the motives for the invasion of Iraq still are shrouded, the consequences of the actions taken slowly start to crystallize. The U.S. is seizing the moment following in the wake of 9/11 to mount an empire-building effort on a global scale. The chief idea is to transform the unipolar moment into unipolar era, by precluding "the emergence of any potential future global competitor". Within this overall idea, subordinated other ideas — like e.g.: that peace-keeping operations should be led by the U.S. rather than then UN; that the U.S. ought to establish a U.S. Space Force to control outer space as well as controlling the cyber space; that the U.S. should "work actively" to democratise China; that the U.S. should deal with the rouge states of the world, in order to create regime changes; and, that the U.S. should increase its defence expenditures dramatically — are possible to identify.[409] The rationale for all this (stretching the Monroe Doctrine to the global level) is simple: *Pax Americana* is good, not only for the U.S., but also for the rest of the world.

After the end of the Cold War the UN SC was more active than ever before. This activism, however, started to decrease when the organisation celebrated its fiftieth anniversary, especially due to the setbacks the U.S. suffered in Somalia. The activism was broken definitely in 1999, when the U.S. and NATO chose to ignore the SC and launched air raids against the FRY. Several, but not all, states of the international society were positive towards the actions taken due to the humanitarian situation in Kosovo. The violent intervention in the FRY was illegal, however, considered legitimate. Though, it is important to note that the NATO intervention in Kosovo revived the old Just War Doctrine and undermined the strict interpretation of the prohibition of use and threat to use violence found in Art. 2(4), the UN Charter. This undermining was taken a few steps further in the wake of 9/11, when the right to self-defence was reinterpreted. Indeed, the intervention in Afghanistan was legal as well as legitimate. But, once again, the international community expressed a more liberal view regarding the use of violence as a legitimate means in international relations than before. The consequences of this, more liberal view on using violence, had unforeseen consequences. In 2003, violence was, once again, used without a mandate from the UN SC. In fact, the use of violence by the U.S. and the UK was in direct opposition to the explicit will of the SC. The military intervention in Iraq violated the prohibition of using violence in international law and thereby violated one of the most fundamental principles of *the* international law. One quite obvious conclusion can be drawn, namely that every loosening on the prohibition of using violence in international relations, regardless of the intentions underlying such a decision is well-meaning (like in Kosovo, 1999), must be considered carefully, since a restrictive interpretation of the prohibition can lead to an escalation of the use of military violence, and be used for promoting

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[409] See Paul Kagan and William Kristol (eds.): *Present Dangers: Crisis and Opportunity in American Foreign and Defence Policy* (San Francisco: Encounter Books, 2000); and, the PNAC report "Rebuilding America's Defences: Strategy, Forces and Resources For a New Century" (Washington D.C.: Project For the New American Century, 2000). In the report it is written that: "A transformation strategy that solely pursued capabilities for projecting force from the United States, for example, and sacrificed forward basing and presence, would be at odds with larger American policy goals and would trouble American allies", and, that " the process of transformation, even if it brings revolutionary change, is likely to be a long one, absent some catastrophic and catalyzing event - like a new Pearl Harbor." See pp. 50f. in the report; and, *The National Security Strategy of the United States of America*. See also Peter Lodenius: *Bush nya värld: Ett imperium föds? [The New World of Bush: The Birth of an Empire?]* (Helsingfors: Tigertext, 2003), pp. 116ff.

national or other interests guised in legal or legitimate terms. This is what has happened in the wake of 9/11.

Hereby, the international legal order that has been constructed step-by-step under a very long period of time, at least since the days of Hugo Grotius, and which seemed to be strengthened after the end of the Cold War, has been undermined. The existing international order (international norms as well as international organisations) is by the current American administration considered as less valuable. The most serious consequence is that the U.S. does not consider itself obliged to respect article 2(4) and to 2(7) of the UN Charter. Hence, what we witnesses is the decline from an "anarchical society", with relatively fixed rules and norms, a society, which in some regions has developed into security communities (like the EU), to a more pure form of anarchy where the right of the strongest and extended (arbitrary) use of violence is prevailing. The new American doctrine is in direct contravention against the international law that was developed after the end of the Second World War. The consequence is increasing anarchy. But anarchy, sooner or later, turns into some sort of stability or order, which can be either legal or more or less imperialistic.[410] An international legal order, however, presupposes some sort of balance-of-power. By these initial remarks, let us now turn to the scenarios discussed above.

The *multilateral optimism* we witnessed after the end of the Cold War declined during the later half of the 1990s and was buried when the U.S. and the UK initiated their invasion of Iraq in 2003. In spite of this, this scenario cannot be dismissed completely. One reason is that Francis Fukuyama was one of the members of the neo-conservative group "The Project For the New American Century" (PNAC), arguing, as we know, that there was no alternative to liberal capitalism. But, contrary to Fukuyama's vision, the victory of liberal capitalism was not won so easy. The battle was not over with the end of the Cold War. Liberal capitalism was not accepted everywhere, on the contrary. It needed more "promotion" in order to be spread. So, Fukuyama's vision is still very important, since it creates a cornerstone in the neo-conservative ideology. Interesting to note, Fukuyama's account is false on at least two counts. First, even though liberal capitalism has outmatched socialism, it is not proved that there exists one single, sustainable development for national success. Second, the American model, is, anyhow, not available to others, since its success depends greatly on the dominant position of America, at the centre of the global capitalist system. This is a position that the U.S. is not willing to yield to any other state. But, the current U.S. administration is determined to export liberal capitalism to the rest of the world, with violent means, if deemed necessary. In here lies a deep contradiction.

The *militant plurilateral* scenario seemed very plausible after the Kosovo operation in 1999. But, its relevancy seems to have vanished after 9/11 and the invasion of Iraq. The U.S. demands support from others, but is not willing to cooperate with them, not even the country's former closest allies. This tendency was visible during the campaign against Afghanistan; with the invasion of Iraq it became crystal clear; militant plurilateralism has rather developed into unilateral militarism.

The scenario of *durable disorder* seems to be relevant today, especially in certain parts of the world (like e.g. Africa and Central Asia). The world looks more anarchic today than it did before the end of the Cold War. But, anarchy, as argued previously, sooner or later, turns into some sort of stability or order, which can be either legal or more or less imperialistic. Therefore, the scenario says more about the transformative period we find ourselves in today, but less regarding what will come after the turbulence, i.e. what the future world order would look like.

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[410] Björn Hettne: *Från Pax Romana till Pax Americana: Europa och världsordningen [From Pax Romana to Pax Americana: Europe and the World Order]*, pp. 174f.

The big conflicts of tomorrow will more likely take place within civilizations than between them, between faith and secularisation rather than between different faiths. Consequently, we cannot learn very much from Huntington.[411]

The EU is bigger than the U.S. regarding population and gross national product. But it is far less united and far less comfortable with globalisation. In military terms, the EU does not qualify as a power at all, the development of the common foreign- and security policy is in its infancy, and the individual member states, more or less, make their own decisions. Before and during the Iraq war a number of the European countries — the UK, Italy, Spain, Denmark and some of the new members from Eastern Europe — lined up with the U.S., not with the other EU states. Hence, the EU is not strong enough to battle the hegemony of the U.S. The EU cannot in military terms stand as a guarantor for a multipolar world, with regions as global agents balancing one another. No other regional project can be compared with the EU regarding depth and extension of collaboration. Consequently, the *interregional* scenario, proposed by Björn Hettne might be desirable, but it seems to be very far away, if likely at all.[412]

States are not vanishing, but rather transforming. Hence, the scenario of *stable chaos* does not seem likely. We do not see any tendency towards a world government created by content. So, the scenario of a *world government* does not look very plausible either. But, what about a world government created by conquest?

There has never been a government of the world, but there has, from time to time, been a government supreme over much of what for those subjected to it was the known world. World government by conquest has, according to Hedley Bull, in the past seemed a much more likely possibility than world government by consent. It was conquest leading to the establishment of previous universal empires, like the Roman one. It was after all, by conquest (as the outcome of a "knockout tournament") that particular princes first made themselves supreme during the era of early modern European international society. The (European) Westphalian state system has several times come close to being transformed into a single empire with a single supreme government, under e.g. Louis XIV in the seventeenth century, Napoleon in the nineteenth century, and Adolf Hitler in the twentieth century.

During the second half of the twentieth century the prospects that world government will be established by conquest appeared slight. Several factors militated against it. The most important was the nuclear stalemate between the U.S. and the USSR. A second factor, following from the first, was the growth in the 1970s of a complex balance-of-power, increasing the stability of the general balance-of-power (i.e. the one between the U.S. and the USSR). A third factor militating against a world government by conquest was the political activisation of the peoples in the world, especially, however not exclusively, expressed in ethnified nationalism. Therefore, the Cold War world order seemed to be an era of disintegration of empires and a period when the prospects for universal monarchy seemed very bleak. But, today, after the end of the Cold War, only one, the ethnified nationalism, remains strong. The balance-of-power that existed during the Cold War is radically undermined.[413] Hence, the context for creating an empire is relatively good, if one has the political will and the necessary strength. The current U.S. administration has both — they want to consolidate a unipolar, unilateral and imperial world order with the ultimate goal of securing the safety of the U.S.

The imperial ambitions of the U.S. have been stretched to the entire world after the collapse of the USSR. Historical parallels can be drawn. Several, not so pleasant, precursors exist. But

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[411] See Ingemar Karlsson: *Tro, terror och tolerans: Essäer om religion och politik [Faith, Terror, and Tolerance: Essays about Religion and Politics]* (Stockholm: Wahlström och Widstrand, 2004), Ch. 1.

[412] Björn Hettne: *Från Pax Romana till Pax Americana: Europa och världsordningen [From Pax Romana to Pax Americana: Europe and the World Order]*, pp. 175f.

[413] Hedley Bull: *The Anarchical Society: A Study of Order in World Politics*, pp. 253f.

the current situation is different. It has never in history existed anything that even distantly looks like the total monopoly on violence that the U.S. posses today. Consequently, world government by conquest, the establishment of a *Pax Americana* or a *coming of empire* is a real option; a credible scenario.[414]

The current American foreign policy can be questioned on legal as well as moral grounds. Indeed it can. But, apart from this, if we accept the underlying ideology, is the Bush Doctrine effective, i.e. does it fulfil its pretensions, to secure America's safety?

The attitude towards the U.S. has shifted 180 degrees from the immediate aftermath of 9/11 to the invasion of Iraq. The invasion of Iraq was the first practical application of the Bush Doctrine, and it turned out to be counterproductive. A chasm has opened between the U.S. administration and the rest of the world. That must be exactly what Osama bin Laden have been hoping for. By declaring war on terrorism, but even more by invading Iraq, President Bush has played right into the terrorist's hand. So has the torture conducted by American soldiers in the Abu Ghraib prison; it has been a propaganda dream comes true for the terrorists. As handled so far, the great war on terror is more likely to bring about a permanent state of war. Instead of a brilliant demonstration of what international assistance can do for a Muslim country, there has been very little progress in Afghanistan as well as in the region, and the initial enthusiasm with which the Taliban overthrow was greeted has dissipated.

Furthermore, it appears that Saddam Hussein planned waging a guerrilla war. He may, George Soros argues, have had this in mind as early as October 2002, when he released all the prisoners from Iraqi jails.[415] The guerrilla warfare forces the invaders to behave like occupying powers. The consequence is suspicious of the civilian Iraqi population as well as inflicting insults and injuries turning the population against the American troops. Iraq has become a magnet, attracting terrorists from all over the world. The American presence in Iraq was intended to pacify the Middle East, in order to secure American security; the result has been the opposite. American military power is constantly growing although the country's overall security most likely is declining.

To summarise, the U.S. administration find itself in a quagmire that is in some ways reminiscent of Vietnam. Domestic pressure for redrawing is likely to build, just as it did back in the 1960s and 1970s for redrawing from Vietnam. Furthermore, the cost of the occupation is estimated to at least 160 billion U.S. dollars for the fiscal years 2003-2004, out of which the U.S. will cover almost all.[416] These facts are slowly starting to become clear for President Bush, and he is today eager to get the UN more involved in Iraq. But, since he is unwilling to make the necessary concessions, the UN has adopted a negative attitude towards the proposals from the U.S. Hence, the Iraqi case shows the fallacy of the idea of American supremacy as driven by the current American administration, The invasion of Iraq has reduced the American ability (as well as the rest of the worlds) to pursue the war on terrorism and to secure American safety. According to William Arkin, "the world [is a] infinitely more dangerous [place] than it was … when George W. Bush took the presidential oath of office [in 2001]".[417]

Then, what are the future consequences of the American strategy? Besides playing right into the terrorist's hand and making the world a more unpredictable and dangerous place than before, several other consequences can be discerned. Let me just mention a few. It is possible that China will take the lead in a more reactive formation, than the one we see today, aimed at containment of the U.S., possibly joined by some combination of Europe, Russia, or Japan.

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[414] See Noam Chomsky: *Hegemony or Survival: America's Quest for Global Dominance*, passim.

[415] George Soros: *The Bubble of American Supremacy*, p. 61.

[416] Op.cit., p.p. 62f.

[417] William M. Arkin: "The Nuclear Option in Iraq: The U.S. has lowered the bar for using the ultimate weapon, *Los Angeles Times* (26th of January, 2003). The article is available on: http://www.commondreams. org/cgi-bin/print.cgi?file=/views03/0126-01.htm. The site was visited 2005-04-15.

The consequence is global rivalry among leading states, which could waste huge amounts of resources, risk the recurrence of major strategic warfare and divert (proper) attention form a number of highly important issues, like e.g.: the environment (including global warming and the growing scarcity of fresh water); HIV/AIDS; global migration (including trafficking); human rights; and, drugs; but also more "concrete" regional problems like e.g.: the Israeli-Palestinian conflict; the conflicts in Chechnya, Sudan, the Democratic Republic of Congo, and Indonesia; and, the development of nuclear programmes by countries like North Korea and Iran. All these issues are rendering a verdict of dysfunctionality on the current world order and on the ways international life is currently organised. The backward turn that the current American foreign policy constitutes risk of reversing a series of encouraging trends — like e.g. redressing past injustices suffered by certain groups (such as indigenous peoples, Holocaust victims, and former colonised people); moves towards accountability of political leaders (like Slobodan Milosevic and Augusto Pinochet); the establishment of a permanent international criminal court (the ICC); widespread demands for participation and functioning democratic procedures in the conduct of international affairs; the establishment of the "global compact" under UN auspices; and regional initiatives (especially the EU) — that was visible during the end of the twentieth century.[418]

To conclude, the current American approach to international relations is neither legal, nor legitimate, nor prudent; it does not even fulfil its own pretensions. As a matter of fact, it is counter-productive and dangerous. It jeopardises a whole lot of what was achieved during the decade that followed the end of the Cold War. The American administration is trying to create reality, not deal with it.

It is easy to become co-opted or even pacified by the new atmosphere dominating international relations after 9/11. It seems that we are entering into an age of foolishness, an epoch of incredulity, a season of darkness, a winter of despair; simply put, the worst of times — where we have nothing before us. But, the situation is not unanimously gloomy, on the contrary. Promising tendencies are identifiable, indicators of wisdom, belief, light, and hope are also visible. If we have everything before us and are facing the best of times is hard to say. In fact, it is presumptuous. But, what can be said is what can be done different than today, in order make the world more stable and the U.S. a less insular and vulnerable place. The rest of this chapter is devoted to this task, to (tentatively) present some constructive suggestions of how the future can be made different than it is made today.

<p style="text-align:center">* * *</p>

Let me start this very final section of the essay by saying something about the great war on terror. Fighting (mega)terrorism is important, but it must and should not be done in terms of military operations, but instead in terms of an international police operation. Concealed networks are not very well-suited declaring war on. Taking such a step is to declare a perpetual war. A "normal" war can be concluded either by the utter defeat of the enemy or a negotiation, ultimately leading to an agreed peace. The only possibility, fighting network-based megaterrorism is to exterminate the enemy, which immediately puts the undertaking outside the framework of law and just war thinking. The idea that the enemy, in this case al-Qaeda, must be eliminated after the end of a war is a throwback to the pre-modern era of conquest and destruction (cf. the crusades). However, with one difficulty added, there exists no reliable way to guarantee their elimination.[419] (Mega)Terrorism should instead be dealt with as a (international) crime and be fought by detective work, good intelligence, and cooperation from the public within states as well as cooperation between states. Using the war metaphor, as

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[418] See Richard Falk: *The Great War on Terror*, pp. 174f.
[419] Op.cit., pp. 178f.

currently done, is false, and it has serious negative consequences. Not at least since it undermines the current world order in general and the UN-system in particular.

An international legal order, to function, must be founded two things, some sort of "balance-of-power", on the one hand, and, an apprehension that the international legal order in question is considered valid (a commitment of heart), on the other hand. Some defenders of the current European integration are prone to see the EU as an anti-hegemonial project, as a project directed against the unilateral policy of the U.S. and the current American administration's version of globalisation. According to this idea, a military strong EU would stand a guarantor for a multilateral world order, with regions as global agents, balancing one another is some sort of balance-of-power.[420] A strong Europe, as argued already by Charles de Gaulle, may include Russia.[421] But, so far the EU does not qualify as a superpower, especially not in military terms. In fact, nothing indicates that the EU ever would be militarised and become a superpower or superstate able to balance the U.S. in military terms. This, however, does not mean that Europe not can serve as a "balance" to the U.S. But, Europe can not and should not take up the fight with the U.S. in military terms, focusing on so called "hard" power, but instead act as a "balance" by providing an alternative to the American interpretation of how to conduct international relations and focusing on so-called "soft" power; i.e. the ability to get what you want through attraction rather than coercion or payments. Soft power arises from the attractiveness of a country's or regimes culture, political ideals, and policies. When the policies are seen as legitimate in the eyes of others, the soft power is enhanced.[422] What Europe ought to do is to continue developing (interregional) relations with other states (as well as regional organisations) in the world, in which fundamental European values are maintained, through existing multilateral or plurilateral institutions, especially the UN.

Speaking about the UN, it is obvious that the organisation must be modernised. It was designed sixty years ago and has been object for very few adjustments during its history. The world of 2005 looks very different from the world of 1945; this is, however, not reflected in the UN Charter. Among necessary reforms we find, as suggested by e.g. the UN SG Kofi Annan, a widening of the membership of the security council; agreement on what should qualify as terrorism; the establishment of a new human rights council; and, commitment to ambitious goals on development, slashing poverty and building democracy.[423] Not surprisingly, these improvements have (already) been met by scepticism, not at least from the U.S. administration, but also from China and the other permanent members of the SC. Hence, they will be difficult to implement.

Sovereignty became, as we now know, the cornerstone of international relations with the Peace of Westphalia in 1648. After thirty years of war, it was agreed that the ruler had the right to determine the religion of his subjects. In the French revolution, the king was overthrown and sovereignty was taken over by the people. In practice, it was the French government that exercised sovereignty hereafter. Eventually a national concept of sovereignty replaced a dynastic one. Anachronistic or not, sovereignty remains the cornerstone of the current world order. Even though the economy is globalised, political power remains rooted in the sovereignty of states. This state-of-the-art poses two distinct challenges: first, how to intervene

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[420] Björn Hettne: *Från Pax Romana till Pax Americana: Europa och världsordningen [From Pax Romana to Pax Americana: Europe and the World Order]*, p. 175.

[421] Alan Pedley: "De Gaulle's vision of Europe as revealed by his *Mémoires*", *Europa* (1996), no. 1. The article is available on: http://www.intellectbooks.com/europa/number1/pedley.htm. The site was visited 2005-04-16.

[422] See Joseph S. Nye: *Soft Power: The Means to Success in World Politics* (New York: Public Affairs, 2004).

[423] See Kofi Annan: "In Larger Freedom: Towards Development, Security and Human Rights for All" (A/59/2005). The report is available on: http://www.un.org/largerfreedom/contents.htm. The site was visited 2005-04-16.

in the internal affairs of sovereign states? second, how to ensure that these intervention serves the common interest?

Foreign aid and other form of non-forcible (humanitarian) assistance can serve as effective instruments for improving internal conditions without running the risk of jeopardising the principle of sovereignty.[424] But foreign aid is only part of the answer, since it applies only to countries willing to accept it. What about the others?

The principle of sovereignty, George Soros argues, needs to be reconsidered. "Sovereignty belongs to the people; the people are supposed to delegate it to the government through the electoral process", he continues.[425] The principle of the people's sovereignty is a powerful one; by specifying that the sovereignty belong to the people, it becomes possible to penetrate the nation-state and protect the rights of the people. The government of a sovereign state have a responsibility to protect its citizens. If they fail to fulfil this responsibility it should be transferred to the level of international society as suggested in a report by the International Commission on Intervention and State Sovereignty entitled *The Responsibility to Protect*.[426] This report provides clear guidelines for military interventions, which are much clearer and more acceptable (read legitimate) than the ones found in the Bush Doctrine. "Prevention is the single most important dimension of the responsibility to protect", it is argued in the report. Conflict prevention cannot start early enough and the U.S. would do well in replacing the Bush Doctrine of preventive action of military nature with a doctrine of preventive action of constructive nature. *The Responsibility to Protect*, however, expects a little too much from the UN. The UN can do exactly what its member states allow and enable it to do. Nothing more; nothing less. The organisation has its limitations, no doubt. But, it could be more effective if it had the full support of the U.S.

The dominant position of the U.S. imposes unique responsibilities of the country. It is simply not enough for the U.S. to pursue narrow national self-interest. It is the U.S. that sets the agenda for the world; other countries, currently, have to responds to whatever the U.S. pursues. The prevailing world order faces one great unsolved problem, namely: how to protect the common interest in a world consisting of sovereign states, which by habit put their own interests ahead of common interests. Such unilateral behaviour is clearly visible in the current American administration, but also in the behaviour of other governments. The most promising democratic way is to maintain and further develop a (genuine) multilateral system in which all states submit to the same rules and participate in the same arrangements.

In 2000, the Warsaw Declaration, signed by 107 states, established the so-called "Community of Democracies".[427] This organisation could offer a source of legitimacy, however not legality, for intervening in the "internal" affairs of non-democratic states, especially if the intervention takes a constructive form. The U.S. together with other democratic states could give the Warsaw Declaration substance. The Community of Democracies could for example become influential with the UN by forming a faction or bloc, excluding the membership of non-democratic states in different UN committees. Hereby, Syria could no longer be a member of the UN SC or Libya chair of the Human Rights Commission. Taken together, the formation of a substantial democratic bloc of nations could potentially alter the character of the UN, making the organisation more effective in influencing the

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[424] Nicholas J. Wheeler and Alex J. Bellamy: "Humanitarian Intervention in World Politics", in John Baylis and Steve Smith (eds.): *The Globalization of World Politics: An Introduction to International Relations* (Oxford: Oxford University Press, 2005), pp. 573f.

[425] George Soros: *The Bubble of American Supremacy*, p. 102.

[426] See the Report by the International Commission on Intervention and State Sovereignty entitled *The Responsibility to Protect* (Ottawa: International Development Research Centre, 2001). The Report is also available on: http://web.idrc.ca/es/ev-9436-201-1-DO_TOPIC.html. The site was visited 2005-04-16.

[427] See: http://www.state.gov/g/drl/rls/26815.htm. The Warsaw Declaration (2000) is available on: www.demcoalition.org/pdf/warsaw_english.pdf. The sites were visited 2005-04-17.

behaviour of its members. This of course, presupposes a change of heart of the current American administration.[428] Such a change of heart seems, however, in the short run unlikely. But, the effects of the chosen approach to foreign affairs has slowly started to become evident for President Bush during his second term; the costs of declining U.S. soft-power is becoming more and more evident; so is the cost of the Iraq war. Something akin to a "bubble", using the words of George Soros, is now occurring in connection with the American administration's pursuit of American supremacy. The U.S. occupies a dominant role in the world, without historical precedent. But, it is based on misinterpretation of the underlying reality, regarding life as struggle for survival in which the survival of the fittest is determined by competition, not cooperation. Eventually the gap between reality and its false interpretation becomes unsustainable, and the bubble bursts.[429] Then, what will happen in the future?

History is not, as we have seen throughout the text, predetermined, on the contrary. One possible scenario is that the Bush administration manages to stabilise the situation in Iraq. Another scenario is that the Bush administration recognises its mistakes and try to correct them and abandon the ideology of American supremacy and returns to a more typical American foreign policy approach, where international law precedes the use of violence. The most likely course of events, however, is that President Bush, during his second term, will try to muddle between the two scenarios briefly sketched. As argued in the introduction of this essay, I favour a third scenario, namely a profound reconsideration of America's role in the world, preferably along the lines sketched above, accepting the specific responsibility of being the only hyperpower in the world, confirming to international legal order, and contributing to make the future world order better and more just. In such as scenario, the UN plays an important role. Not the UN we see today, but a more progressive one. Changes are necessary. Changes are also possible, if, but only if, the member states mobilise enough political courage and will.

> The United Nations exists not a as a static memorial to the aspirations of an earlier age, but as work in progress — imperfect, as all human endevours must be, but capable of adaptation and improvement.[430]

To conclude, only one hundred years ago the use of military violence was still considered a legal means in international relations. During the twentieth century it became, due to the experiences of WW I and WW II, considered as illegal. Sixty years ago the states of the world agreed upon making the use or the threat to use force an illegal means in international relations. During the 1990s this "absolute" prohibition was questioned and the use of violence, for different purposes, where considered, if not legal, at least legitimate once again. This is, as have been showed in this essay, dangerous. Every loosening up of the prohibition of violence must be considered carefully, since it can, as we have seen, lead to an escalation of the use of violence, but also the use of violence to promote national interests, disguised in legitimising terms. This is undesirable and dangerous. But, we are not bound to create our future world order they way we currently do, since the *future [world order] becomes what states and other agents make of it*. Nothing more. Nothing less.

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[428] George Soros: *The Bubble of American Supremacy*, pp. 114ff.

[429] Op.cit., pp. 176ff.

[430] Kofi Annan: "Strengthening of the United Nations: an agenda for further change" (A/57/387) (2002). The Report is available on: http://www.un-ngls.org/UNreform.htm. The site was visited 2005-04-17.

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