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# SPEECH

## STRENGTHENING WORLD ORDER: REVERSING THE SLIDE TO ANARCHY

John Norton Moore\*

Professor Bilder, Dr. Ringler, ladies and gentlemen:

It is an honor and a pleasure to deliver the Corliss Lamont Lecture at the University of Wisconsin. My remarks this evening, at one of the nation's great centers of learning, are dedicated to the importance of enhanced research and thought about international conflict management. They are also dedicated to the proposition that war among nations is not inevitable and that human thought can and will eliminate it from the face of the Earth.

My remarks, of course, are solely my own and are not those of any institution with which I am or have been affiliated. The content of these remarks will be in two related parts:

— first, a summary intellectual map and history of human thought about war prevention *and* — second, a new proposal for broadening East-West dialogue that I call “world-order accountability.”

### PART I

For more than 2000 years mankind has sought to control the scourge of war. Though war has not been eliminated, those efforts have been important in reducing and controlling international violence. And whatever their success, they provide the intellectual heritage in which contemporary mankind must work to avoid thermonuclear war and re-

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duce international violence. Where that heritage is inadequate there is no more pressing need than its successful strengthening.

By 1987, efforts to control international violence had produced more than a dozen principal intellectual approaches. These approaches are interrelated and might be usefully thought of as separate strands in a rope of increasing numbers of strands and, hopefully, strength as we seek to enhance system strengths against war. These principal intellectual strands are norms concerning permissibility of recourse to force; laws of war, neutrality, and anti-terrorism; institutions and practices for peaceful settlement of disputes; diplomacy, including negotiation theory, and "second track diplomacy," personal responsibility for violation of major conflict management norms (popularly known as "the Nuremberg principles"<sup>1</sup>); institutional modes of conflict management including collective security; arms control, disarmament, confidence building measures, and neutrality; deterrence, balance of power, and maintenance of strategic balance; national measures for control of force and promotion of peace; theories of pacifism and non-violent sanctions; functionalism, including systems interchange, "people to people" interchange, and education about war or "rationalism"; and systemic theories about war prevention, including linkages between conflict and political systems.

The historical development of conflict management theory and these dozen plus strands can most usefully be divided into six periods. You should bear in mind that these are divisions for heuristic purposes, that any history of thought does not come neatly divided, and that these divisions are most certainly fuzzy at the edges. These periods are: the "just war" period from approximately 335 B.C. to 1800 A.D., the "war as fact" era from approximately 1800-1918, the early League of Nations<sup>2</sup> system from approximately 1919-1925, the Kellogg-Briand Pact<sup>3</sup> and late League era from approximately 1928-1945, the early United Nations Charter system from approximately 1945-1958, and the contemporary Charter era from approximately 1959 to the present.

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1. INTERNATIONAL MILITARY TRIBUNAL CHARTER; *Resolution Affirming the Principles of the International Law Recognized by the Charter of the Nuremberg Tribunal*, G.A. Res. 95 (I), 1 U.N. GAOR at 188, U.N. Doc. A/64/Add. 1 (1946), reprinted in D. DJONOVICH, UNITED NATIONS RESOLUTIONS 175 (1972). The International Law Commission drafted the Principles at the direction of the General Assembly of the United Nations. M. BASSIOUNI, A DRAFT INTERNATIONAL CRIMINAL CODE AND DRAFT STATUTE FOR AN INTERNATIONAL TRIBUNAL 3-4 (1987).

2. LEAGUE OF NATIONS COVENANT, art. 1.

3. The Pact of Paris (Kellogg-Briand Pact) for the Renunciation of War as an Instrument of National Policy, Feb. 9, 1929, 46 Stat. 2343, T.S. No. 796, 94 L.N.T.S. 57 [hereinafter Kellogg-Briand Pact].

## A. THE "JUST WAR" PERIOD

The "just war" approach was essentially a religious-philosophical doctrine that war was justified if the cause was just. Particularly as associated with St. Augustine,<sup>4</sup> St. Thomas Aquinas<sup>5</sup> and other Catholic thinkers, the focus was on the objectives motivating the use of force. If the objective was to right a wrong or punish a wrongdoer then the war was just, subject to certain other qualifications, such as proportionality and state control of violence. Importantly, in this tradition an aggressive war can be a just war as can a defensive war. That is, it is not necessary for a just war that the other side resort to coercion first. Moreover, presumably under the tradition, if an aggressive war is just, then even defense against it would be unjust. Clearly, then, the tradition of "just war" is in a central respect fundamentally different from the aggression-defense requirements of contemporary international law and the United Nations Charter.<sup>6</sup>

A strength of the "just war" approach is that it does not divorce order from justice. If force is lawfully used it must be in the service of a just cause. In addition, it is an on-the-merits attempt at distinguishing permissible from impermissible coercion, and a beginning analysis of rules for the conduct of hostilities.

Within the context of a powerful and fairly monolithic church in the Western world which was influential in deciding the justice of a cause, the "just war" doctrine was not as unremarkable as it might appear today. In fact, apparently there is at least one recorded instance where Spanish authorities, before beginning a war, consulted the clergy on its justice. The doctrine, then, had some foundation in actual state practice. Moreover, the sanction was said to be a real one in the hereafter, and strong religious beliefs made this a meaningful threat.

With the rise of the nation-state and the coming of the Reformation, however, the power of a once monolithic Church began to wane. As it did so, the real disadvantages of the approach became even more evident. First, there were no objective criteria as to a just or unjust war and there was no central decisionmaker to make the determination. As a result, nations were free to interpret the justness of their own cause

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4. See Hartigan, *Saint Augustine on War and Killing: The Problem of the Innocent*, 27 J. HIST. IDEAS 195, 195 (1965) (discussing Saint Augustine's writings concerning the right to wage war).

5. See J. TOOKE, *THE JUST WAR IN AQUINAS AND GROTIUS* 1 (1965) (discussing Aquinas' and Grotius' approaches to the Just War doctrine); *AQUINAS: SELECTED POLITICAL WRITINGS* 1 (A. D'Entrenes, ed. 1948) (containing the major political writings of Aquinas).

6. See U.N. CHARTER art. 1, para. 1.

and did so with predictable results. In fact, theorists were increasingly concerned about the problem of a war which is just on both sides. One Spanish theorist, Francisco de Victoria, ingeniously solved this by the doctrine of "invincible ignorance," reminiscent of some of our current legal fictions. Thus he maintained that, although there could only be one objectively just side, invincible ignorance may lead one to believe that his side is just and thus excuse his conduct.<sup>7</sup> Second, and most importantly, the "just war" theory failed to focus on the destructiveness of force as a strategy of change. The focus was on the justice of the cause, not on the inefficiency of coerced solutions or the injustice of widespread devastation. Third, there was little recognition of the need for procedural or institutional techniques for avoiding or controlling war, although toward the end of this period Samuel Pufendorf<sup>8</sup> did exhort princes to try a conference, arbitration or even the lot before resorting to arms.

These inherent difficulties with the "just war" theory, compounded by the Reformation and the breakup of the monolithic church, drained much of its intellectual vigor and power to influence conduct. It is probably more accurate to say, however, that it was pushed aside by a more vigorous set of ideas than that it was totally abandoned. In fact, the just war tradition has continued to be the approach of many Catholic and Protestant theologians to problems of conflict management.

#### B. THE PERIOD OF "WAR AS FACT"

During the seventeenth and eighteenth centuries the rise of the nation-state and theories of absolute sovereignty began to push aside the just war approach. The *realpolitik* of Clausewitz and Machiavelli and notions of sovereignty transformed war from an instrument conceived for justice to an instrument of national policy. Thus, Carl von Clausewitz wrote, in *On War*: "[W]ar is an instrument of policy; it must necessarily bear its character, it must measure with its scale; the conduct of war, in its great features, is therefore policy itself, which takes up the sword in place of the pen. . . ."<sup>9</sup> Simultaneously, theorists began to differentiate between moral or natural law principles and positive international law reflecting state behavior. Writing in *The Law of Nations*

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7. de Victoria, *The Second Relectio on the Law of War*, in F. DE VICTORIA, RELECTIONES THEOLOGICAE (1557), reprinted in CLASSICS OF INTERNATIONAL LAW 163, 176-78 (J. Scott ed. 1934).

8. See generally S. PUFENDORF, ELEMENTA JURISPRUDENTIAE UNIVERSALIS LIBRI DUO (1660); S. PUFENDORF, DE JURE NATURAE ET GENTIUM LIBRI OCTO (1672); S. PUFENDORF, DE STATU IMPERII GERMANICI (1667).

9. C. CLAUSEWITZ, ON WAR 610 (M. Howard & P. Paret, eds. 1976).

in 1758, de Vattel emphasized the distinction between natural law judgments, which distinguish just wars, and positive international law, which accounts wars just on both sides since nations are equal and independent and cannot claim a right of judgment over each other.<sup>10</sup>

The central tenet of the "war as fact" period is that since each state is sovereign, international law cannot regulate the resort to war. War is a "metajuristic phenomenon," an event outside the range and control of law. The existence of war is simply a question of fact giving rise to neutral rights and duties and the law of warfare to mitigate destructiveness of the conflict, and with which international law can properly be concerned.

This period represented a "cop-out" in making the necessary judgments between permissible and impermissible coercion. Things had moved from bad to worse. It was not all bad, however, as this period witnessed a focus of concern on the rules for conducting warfare, on the regulation of force short of war such as reprisals, and, in the 1818-1822 Concert of Europe system<sup>11</sup> and Hague Conferences of 1899<sup>12</sup> and 1907,<sup>13</sup> the beginning of an international conference system concerned with war-peace issues. For the first time it began to be recog-

10. E. DE VATTEL, *THE LAW OF NATIONS* (1758).

11. See F. WILSON, *THE ORIGINS OF THE LEAGUE COVENANT* 135 (1928) (stating that the Concert of Europe system was a new device in the prevention of war that sought to give, through conferences, the counsels of the great power nations the simplicity of a single state).

12. Convention for the Pacific Settlement of International Disputes, July 29, 1899, 32 Stat. 1803, T.S. No. 392, *reprinted in* 2 MALLOY, *U.S. TREATIES* 201b (1899) [hereinafter Hague Convention of 1899]; Convention on the Laws and Customs of War on Land, July 29, 1899, 32 Stat. 1803, T.S. No. 403; Convention for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention of August 22, 1864, July 29, 1899, 32 Stat. 1827, T.S. No. 396; Convention Prohibiting Launching of Projectiles and Explosives from Balloons, July 29, 1899, 32 Stat. 1839, T.S. No. 393.

13. Convention for the Pacific Settlement of International Disputes, Oct. 18, 1907, 32 Stat. 2199, T.S. No. 536 [hereinafter Hague Convention of 1907]; Convention Respecting the Limitations of the Employment of Force for the Recovery of Contract Debts, Oct. 18, 1907, 36 Stat. 2241, T.S. No. 537; Convention Relative to the Opening of Hostilities, Oct. 18, 1907, 36 Stat. 2259, T.S. No. 538; Convention Respecting the Laws and Customs of War on Land, Oct. 18, 1907, 36 Stat. 2277, T.S. No. 539; Convention Respecting the Rights and Duties of Neutral Powers and Persons in Case of War on Land, Oct. 18, 1907, 36 Stat. 2310, T.S. No. 540; Convention Relative to the Laying of Automatic Submarine Contact Mines, Oct. 18, 1907, 36 Stat. 2332, T.S. No. 541; Convention Concerning Bombardment by Naval Forces in Time of War, Oct. 18, 1907, 36 Stat. 2351, T.S. No. 542; Convention for the Adaption to Maritime Warfare of the Principles of the Geneva Convention, Oct. 18, 1907, 36 Stat. 2371, T.S. No. 543; Convention Relative to Certain Restrictions with Regard to the Exercise of the Right of Capture in Naval War, Oct. 18, 1907, 36 Stat. 2396, T.S. No. 544; Convention Concerning the Rights and Duties of Neutral Powers in Naval War, Oct. 18, 1907, 36 Stat. 2415, T.S. No. 545; Convention Prohibiting the Discharge of Projectiles and Explosives From Balloons, Oct. 18, 1907, 36 Stat. 2439, T.S. No. 546.

nized that nation states must act in concert to promote their common interest in world order. The Hague Conferences, in fact, foreshadowed the League of Nations, as the participants promoted rules concerning the law of war, established such dispute settlement machinery as the Permanent Court of Arbitration<sup>14</sup> and, on the substantive side, even prohibited the use of force for the collection of international debts. The latter part of this period also witnessed a rise of pacifism and rationalism as theories of war avoidance. That is, a belief that war could be avoided if enough individuals would agree not to fight and that education about the irrationality of resort to war would prevent its use. Pacifism, of course, was strongly rooted in early Christian thought prior to the rise of the "just war" tradition.

To summarize, although the "war as fact" period deemphasized judgments concerning the initiation of major coercion, it began to develop a framework for appraisal of minor coercion, greatly accelerated development of the laws of war (partly in the important 1907 Hague Conventions<sup>15</sup>), introduced international machinery for peaceful settlement of disputes, began a tradition of international cooperation on war/peace issues, introduced in the Concert of Europe system<sup>16</sup> a concern with maintenance of the balance of power, and introduced peace activism focused at the time on pacifism, rationalism, and world federalism. Toward the end of the period—and on the eve of World War I—its central intellectual focus was on mechanisms and procedures for peaceful settlements of disputes.

### C. THE PERIOD OF THE LEAGUE OF NATIONS

The nineteenth and early twentieth century experience with international organizations combined with the worldwide revulsion at the terrible destructiveness of World War I, to end the period of unlimited national discretion to resort to war. The League of Nations was founded in 1920 as an integral part of the Treaty of Versailles<sup>17</sup> which concluded World War I. The Covenant to the League was essentially a response to what was widely believed to be a war by accident. If, in the era of nation-states, war could arise by accident without anyone really

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14. Hague Convention of 1899, *supra* note 12, arts. 20-29 (establishing the Permanent Court of Arbitration).

15. See *supra* note 13 (listing the 1907 Hague Conventions).

16. See generally F. WALTERS, A HISTORY OF THE LEAGUE OF NATIONS (1952) (noting the 19th century growth of efforts to abolish war through consultations such as the Concert of Europe); see also F. WILSON, *supra* note 11, at 135 (discussing an evolving focus on the rules for conducting warfare).

17. Treaty of Versailles, June 28, 1919.

wanting war, the answer seemed to be to subject nation-states to delay and procedures for peaceful settlement before permitting resort to war. Under the Covenant, then, the lawfulness of resort to war was primarily defined in procedural terms. The lawfulness of war did not depend solely on the justness of one's cause but rather on compliance with procedural standards. Thus, war was illegal if (a) the dispute was not submitted to third-party adjudication or council action; (b) the declarant did not wait at least three months after the award before going to war; or (c) the declarant warred against a complying state.

The major weakness of the League lay in the skeptical attitude of nation-states toward it, and their continuing determination to independently pursue their own national interests as they perceived them. The failure of the United States to join despite President Wilson's leading role in creating the League was perhaps symptomatic of a deeper malaise. When William Allen White was asked to write an article for *Harper's Magazine* on "What Does Kansas Think of the League of Nations," he was reported to have replied: "Kansas does not think of the League of Nations."<sup>18</sup>

Moreover, in keeping with the earlier emphasis on sovereign discretion, decisions of the Council had to be unanimous, and in practice this greatly weakened any possibility of meaningful collective security. And thirdly, the emphasis on procedural and institutional checks on resort to war was not clearly balanced by substantive judgment about what kinds of coercion were permissible and impermissible apart from procedural compliance.

Whatever the cause, the League proved incapable of stopping the deliberate aggression of Japan in China,<sup>19</sup> Italy in Ethiopia,<sup>20</sup> and Germany in Europe.<sup>21</sup> The principal disarmament conference of the League, held in 1932,<sup>22</sup> likewise proved incapable of controlling an escalating arms build-up driven by Axis determination.

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18. White authored fifteen books including biographies of three presidents. *See, e.g.,* W. WHITE, CALVIN COOLIDGE, THE MAN WHO IS PRESIDENT (1925); W. WHITE, THE MAN, HIS TIMES & HIS TASK (1928); *see generally* Milestones, TIME, Feb. 7, 1944, at 82 (describing White as a famous Kansas author who edited the *Emporia Gazette* for over 49 years, during which it became the country's most quoted newspaper).

19. *See* J. STONE, AGGRESSION AND WORLD ORDER 36 (1958) (noting Japan's military expansion into Manchuria as one of many instances of aggression exhibiting the weakness of the League).

20. *Id.*

21. *Id.*

22. Conference for the Reduction and Limitation of Armaments, Feb. 1932, *reprinted in* THE MONTHLY SUMMARY OF THE LEAGUE OF NATIONS XIII, No. 2, at 35-38 (reporting on the first Conference for the Reduction and Limitation of Armaments).



The period of the League did, however, introduce important new controls on the first use of lethal chemical weapons as embodied in the 1925 Geneva Protocol.<sup>23</sup> This period also made further progress in the laws of war, particularly the 1929 Convention on the Treatment of Prisoners of War.<sup>24</sup> It introduced the concept of criminal accountability for violation of certain conflict management norms, in the abortive Leipzig trials,<sup>25</sup> and developed at the 1921-22 Washington<sup>26</sup> and 1930 London Naval Conferences<sup>27</sup> a model for arms control negotiations based on maintenance of the strategic balance through numerical limits on major weapons systems—in this case battleships and certain other naval ships.

The withdrawal of Japan in 1935 from the Washington-London agreements,<sup>28</sup> however, reflected the same international reality that had doomed the League. It is a sad commentary on the American experience during this period that despite Wilson's lead in establishing the League and seeking to promote international relations based on law, American public opinion was strongly isolationist, and as a result America—along with the other democracies—lost an opportunity for deterrence that might have prevented World War II. Indeed, Churchill referred to World War II as “the unnecessary war” because of this lost opportunity at deterrence. It should be recalled that Roosevelt's famous “quarantine” speech in 1937, in which he called for a “quarantine” of aggressor nations, engendered a negative reaction in American public opinion.<sup>29</sup> The winds of war were spreading the flames in Asia and Eu-

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23. Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous, or Other Gases, and of Bacteriological Methods of Warfare, June 17, 1925, 26 U.S.T. 571, T.I.A.S. No. 8061.

24. Convention Relative to the Treatment of Prisoners of War, July 27, 1929, 47 Stat. 2021, T.S. No. 836, 118 L.N.T.S. 343.

25. Judgment of the German Supreme Court in the Case of Lieutenants Dittmar and Boldt (The Llandovery Castle Case), *reprinted in* THE LAW OF WAR - A DOCUMENTARY HISTORY 868-82 (L. Friedman, ed. 1972).

26. Treaty for the Limitation of Naval Armament, Feb. 6, 1922, United States-Great Britain, 43 Stat. 1655, T.S. No. 671 [hereinafter Washington Naval Conference].

27. Treaty for the Limitation and Reduction of Naval Armament, Apr. 22, 1930, United States-Great Britain, 46 Stat. 2858, T.S. No. 830 [hereinafter London Naval Conference].

28. *See Depriving Japan of Mandates is Favored by League Majority, But Action is Far Off*, N.Y. Times, Jan. 28, 1935, at 15 (discussing the questions raised by the League of Nations Council as a result of Japan's withdrawal); *Japan's Chair is Removed*, N.Y. Times, Apr. 16, 1935, at 4 (noting that Japan lost its chair at the Council of the League of Nation upon Japan's withdrawal from the League after a fifteen year membership).

29. *See* THE PUBLIC PAPERS AND ADDRESSES OF FRANKLIN D. ROOSEVELT sec. 128 (1937) (quoting the text of Roosevelt's “quarantine” speech).

rope but American public opinion sought refuge behind the oceans.

#### D. THE KELLOGG-BRIAND PACT<sup>30</sup> AND THE LATE LEAGUE ERA

The lack of a normative, substantive emphasis of the League was remedied in 1928 by the controversial Treaty for the Renunciation of War.<sup>31</sup> This Treaty, popularly known as the Kellogg-Briand Pact, or "Pact of Paris," prohibited war for the solution of international controversies or as an instrument of national policy.<sup>32</sup> It was clear from the Conference discussions that defensive use of force was excluded from this ban.

As a conflict management tool the Pact of Paris was roundly criticized for unrealistically creating expectations that war would be controlled. But in the history of thought about permissible coercion, it was momentous. This Pact filled what had become widely known as a "gap in the Covenant" (see above) that permitted war. But the Kellogg-Briand Pact did far more than fill the famous "gap in the Covenant." It reflected a fundamental shift in the history of conflict management that may have been the single most important intellectual leap in that history. The focus was no longer whether war was "just" or whether certain procedural requirements designed to prevent accidental war had been met. Rather, the focus was squarely on whether a use of force was aggressive and thus illegal or defensive and thus lawful. Major coercion could no longer be used as an instrument of national policy but (with some exceptions) only to protect against an illegal use of force. Now mankind had begun to at least collectively understand that the use of force was simply too destructive as a modality of major change in the international system.

#### E. THE PERIOD OF THE UNITED NATIONS CHARTER

At the conclusion of World War II the Allies met at San Francisco, in the words of the preamble of the Charter, "to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind. . . ."<sup>33</sup> Thus was ushered in the period of the United Nations. Basically, the Charter built on the two great strands of the League period: first, the substantive requirements of the Kellogg-Briand Pact outlawing war except in defense, and second, the principle

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30. Kellogg-Briand Pact, *supra* note 3.

31. *Id.*

32. *Id.*

33. U.N. CHARTER preamble.

of collective defense from article 16 of the League.<sup>34</sup>

The Charter, however, substantially strengthened the structure of the League period. Since the Kellogg-Briand pact had condemned "recourse to war,"<sup>35</sup> it was not clear that forceful reprisals and force short of war, which had been the focus of international law in the "war as fact" period, were prohibited. The Charter closed this loophole by changing the operative language from "war" to "the threat or use of force,"<sup>36</sup> although the permissible limits of force short of the article 2(4) "threshold" is still debated. And on the procedural side, the U.N. envisioned a strengthened Security Council.<sup>37</sup> Henceforth, collective security—even if only the collective security of the big five powers at the end of World War II—would be substituted for unilateral action. The Charter also greatly strengthened the role of the Secretary-General<sup>38</sup> and it established an International Court of Justice<sup>39</sup> as an integral part of the United Nations system.

The major difficulty with the Charter structure is, of course, now

34. LEAGUE OF NATIONS COVENANT art. 16. Article 16 states:

Should any Member of the League resort to war in disregard of its covenant under articles 12, 13, or 15, it shall ipso facto be deemed to have committed an act of war against all other Members of the League, which hereby undertake immediately to subject it to the severance of all trade or financial relations, the prohibition of all intercourse between their nations and the nationals of the covenant-breaking state, and the prevention of all financial, commercial, or personal intercourse between the nationals of the covenant-breaking state and the nationals of any other state, whether a Member of the League or not.

It shall be the duty of the Council in such case to recommend to the several Governments concerned with what effective military naval, or air force the Members of the League shall severally contribute to the armed forces to be used to protect the covenants of the League. The Members of the League agree, further, that they will mutually support one another in the financial and economic measures which are taken under this article, in order to minimize the loss and inconvenience resulting from the above measures, and that they will mutually support one another in resisting any special measures aimed at one of their number by the covenant-breaking state, and that they will take the necessary steps to afford passage through their territory to the forces of any Members of the League which are co-operating to protect the covenants of the League.

Any Member of the League which has violated any covenant of the League may be declared to be no longer a Member of the League by a vote of the Council concurred in by the Representatives of all the other Members of the League represented thereon.

*Id.*

35. Kellogg-Briand Pact, *supra*, note 3, 94 L.N.T.S., at 65.

36. U.N. CHARTER art. 2, para. 4. This paragraph now states 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." *Id.*

37. U.N. CHARTER art. 7, para. 1.

38. *Id.*

39. *Id.*

history. The wartime cooperation between the major powers broke down over the cold war—as may have been anticipated by at least some national leaders when the Charter was formally agreed upon. As a result, the article 43<sup>40</sup> agreement to specify national forces to be made available to the Security Council at its request, was never implemented<sup>41</sup> and the Security Council entered the frustrating period of the veto.

#### F. THE CONTEMPORARY CHARTER ERA

Today international relations are shaped by several overriding systemic conditions. These include the East-West rivalry, the nuclear condition and a growth in secret warfare below the nuclear threshold ranging from state-sponsored terrorism through protracted national liberation struggles.

This period has witnessed an explosion in newer theories of conflict management, many loosely grouped under an emerging discipline of “peace studies.” These newer approaches include negotiation theory, second track diplomacy, non-violent sanctions (as opposed to pacifism), an enhancement of interest in functionalism and rationalism and a study of “pathways to war” or conflict scenarios. Not surprisingly, because of the failure of deterrence prior to World War II and the existence of the cold war, deterrence has served as a central component of governmental policies in this contemporary Charter era, although it has been focused on nuclear and regular conventional war rather than the newer mode of “secret warfare” characteristic of the contemporary era. In addition, all of the earlier strands continue to play a role. The popular focus (as well as the focus of East-West dialogue), however, because of the nuclear condition, overwhelmingly has been nuclear arms control.

### PART II

#### A. A PROPOSAL FOR BROADENING EAST-WEST DIALOGUE

For a quarter century the focus of East-West dialogue has been arms

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40. U.N. CHARTER art. 43, para. 1. This paragraph states that: All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.

*Id.*

41. U.N. CHARTER art. 7, para. 1.

control, indeed primarily control of strategic nuclear weapons. That process has produced achievements recognized by all including the 1963 Limited Test Ban Treaty,<sup>42</sup> the 1968 Nuclear Non-Proliferation Treaty,<sup>43</sup> the SALT agreements,<sup>44</sup> and the recent INF Treaty.<sup>45</sup> Whatever the success of this process, the potential of nuclear Armageddon suggests that nuclear arms control should and will remain an important focus of East-West dialogue.

A powerful case can be made, however, that this near total focus with negotiations concerning strategic nuclear arms had both failed to prevent a deterioration in world order and paradoxically may even have lessened chances of an agreement on nuclear arms. It is common knowledge that we end the quarter century of SALT/START/Geneva talks with more than double the number of deliverable warheads on all sides. The conventional military balance in Europe seems as unstable as when core arms talks began, and — prior to the recent INF Treaty — a new destabilizing element had been added in massive Soviet deployment of triple warhead SS-20 intermediate range and newer shorter range nuclear missiles and a more restrained NATO<sup>46</sup> response with ground launched cruise missiles (GLCMs) and Pershing II IRBM deployment. Despite recurrent episodes of détente — and more recently *perestroika* in general — tension between the United States and the Soviet Union has remained as high. Most ominously, the quarter century has produced a dramatic increase in terrorism, guerrilla warfare and what has widely become known as “low-intensity” or “secret” warfare. It was also a period that produced the Vietnam and Korean Wars, the fourth and fifth most serious in American history in terms of casualties. Sadly, although there are a few recent signs of improvement, this period also seems to be witnessing an accelerating deterioration in institutions for the maintenance of world order, such as the United Nations, the International Court of Justice, the Organization of American States,<sup>47</sup> and even the democratic alliance systems, as with the decline

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42. Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water, Aug. 5, 1963, 14 U.S.T. 1313, T.I.A.S. No. 5433, 480 U.N.T.S. 43.

43. Nuclear Non-Proliferation Treaty, July 1, 1968, United Kingdom-United States-Union of Soviet Socialist Republics, 21 U.S.T. 483, T.I.A.S. No. 6839.

44. Interim Agreement, May 26, 1972, United States-Union of Soviet Socialist Republics, 23 U.S.T. 3462, T.I.A.S. No. 7504.

45. Treaty On The Elimination Of Their Intermediate-Range And Shorter-Range Missiles, Dec. 8, 1987, United States — Union of Soviet Socialist Republics, *reprinted in* 27 I.L.M. 84 (1988).

46. North Atlantic Treaty Organization, April 4, 1949, 63 Stat. 2241, T.I.A.S. No. 1964, 34 U.N.T.S. 243.

47. CHARTER OF THE ORGANIZATION OF AMERICAN STATES, Apr. 30, 1948, 2 U.S.T. 2394, T.I.A.S. No. 2361, 119 U.N.T.S. 3.

of first SEATO<sup>48</sup> and then ANZUS.<sup>49</sup>

Given this record of world order problems outstripping the important but modest record of East-West dialogue focused on nuclear arms control, it may be prudent to examine whether that dialogue should be broadened to include issues beyond arms control. I believe the case is strong that the United States, and the democratic nations in general, should carefully broaden the range of East-West dialogue to include a variety of issues central both to world order and a context permitting more successful arms control. This broadened dialogue might be termed "world peace accountability" talks in the interest of a political concept that could obtain broad support within the democracies. Before turning, however, to the possible substance and procedure of such an approach let us briefly examine the weaknesses of the current central focus on nuclear arms control. Their discussion is emphatically not an argument against the importance of nuclear arms control.

History teaches that every generation searches for a political holy grail for the urgently needed human goal of elimination of war. Such ideas usually embody an important truth and may or may not become part of the central myth system of their political societies. Sadly, however, there is not likely to be a single holy grail for the achievement of stable peace. War almost certainly is multi-caused, with causes varying by types and periods. Like another human scourge, cancer, it may never have a single cure but may depend on greater human leadership across a range of more than a dozen important strands in conflict management.

As we have seen during the early nineteenth century much intellectual thought focused on promulgating pacifism as the solution to war. From the turn of the century until the establishment of the League of Nations, the focus of thought on war prevention became the promotion of third party dispute settlement machinery for resolution of international disputes. Unlike pacifism, this became the centerpiece of American and European efforts at war prevention for more than two decades with the establishment of the Permanent Court of Arbitration,<sup>50</sup> the Permanent Court of International Justice,<sup>51</sup> and more than 120 bilat-

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48. Southeast Asia Collective Defense Treaty, Sept. 8, 1954, 6 U.S.T. 81, T.I.A.S. No. 3170, 209 U.N.T.S. 28 (entered into force on Feb. 19, 1955). The Southeast Asia Collective Defense Treaty was signed September 8, 1954, by the governments of Australia, France, Great Britain, New Zealand, Pakistan, the Philippines, Thailand, and the United States. *Id.* On June 30, 1977, in Bangkok, SEATO was formally dissolved.

49. Security Treaty, Sept. 1, 1951, Australia-New Zealand-United States, 3 U.S.T. 3420, T.I.A.S. No. 2493.

50. Hague Convention of 1899, *supra* note 12.

51. LEAGUE OF NATIONS COVENANT art. 14. The Permanent Court of International

eral arbitration, "cooling-off," and fact-finding treaties. The League of Nations and the United Nations focused on the hope that collective security would end aggressive war, yet neither organization could wholly transcend the real-world reluctance of states and the realities of contending world order systems.

Not surprisingly, the clear failure to deter Hitler as the core of World War II coupled with the destructive potential of nuclear weapons has focused world attention since World War II on deterrence and on the control of nuclear weapons. Nuclear arms control, as the central preoccupation of East-West dialogue, has much more thoroughly captured both public expectations and official policy across political lines than any prior focus on a means of war avoidance. While meaningful arms control that contributes to strategic stability is unquestionably of great importance, it is increasingly open to question whether such a focus, to the virtual exclusion of a variety of additional approaches to conflict avoidance, is the most effective means to enhanced world order and even arms control itself.

A preoccupation with nuclear arms control to the exclusion of other important strands in conflict management may have costs both in over-emphasizing arms control and underemphasizing other important world order principles.

While it may be paradoxical to speak of overemphasis of nuclear arms control as a centerpiece of East-West dialogue when no core agreement on such arms control has yet been reached, in several important respects there may be costs of such an emphasis for conflict management itself. First, we should realize that arms control is not the core of the problem between East and West. As Dr. Zbigniew Brzezinski recently reminded us in the Winter 1987 issue of *The Washington Quarterly*,

geopolitical and ideological conflicts between the United States and the Soviet Union are the main cause of the hostility and tension in the U.S.-Soviet relations. Competition in arms, both strategic and conventional, is the consequence of that condition, not its cause. Hence, it is a mistake to make a fetish out of arms control or to make it the central facet of U.S.-Soviet relations.<sup>52</sup>

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Justice was an intergovernmental institution, established under article 14 of the Covenant of the League of Nations, with the task of examining "all disputes of an international character submitted thereto by the Parties" and of giving "[a]dvisory opinions on all disputes and issues presented by the Council or Assembly of the League of Nations . . . ." *Id.* Forty-four member states of the League adopted the Statute of the Permanent Court on December 13, 1920. *Id.* The Court began its work on December 15, 1922 in the Hague and ceased to exist formally on December 31, 1945.

52. Brzezinski, *National Strategy and Arms Control*, 10 WASH. Q. 5, 5 (1987).

The same point is also made by the converse illustration that despite the ability of the French and British to devastate American cities with nuclear weapons, few are seriously perturbed about the need for the United States to limit French and British systems. Thus, to the extent that over-preoccupation with arms control causes us to neglect more serious causes of strain, it may have costs for conflict management itself.

Second, despite the unquestioned need for genuine arms control in enhancing strategic stability, sadly history does not tell us that earlier such efforts, for example, in the London<sup>53</sup> and Washington Naval Conferences,<sup>54</sup> were able to prevent World War II. That is, it would seem a mistake to put all of our conflict management eggs in a single basket not clearly linked with inevitable success in war avoidance. In the real world our current expectations about arms control as a holy grail of war avoidance may be no more accurate than similar expectations about pacifism and third party dispute settlement that failed to prevent four of the five most deadly wars in American history.

Third, an overemphasis on nuclear arms control can ignore and even exacerbate a crucial strategic problem for the West, that of the historic imbalance between Warsaw Pact<sup>55</sup> and NATO conventional forces in the European theatre. The West has, since World War II, relied on linkage to the Western nuclear deterrent at the central strategic front as the deterrent to prevent conventional attacks in Europe (however tenuous in an age of rough equivalence and massive theatre nuclear systems). One cost of preoccupation with central nuclear systems may have been relative neglect by the West of the Mutual and Balanced Force Reduction (MBFR)<sup>56</sup> negotiations to restore conventional balance in Europe. Although initially part of a dual package with the Soviet-sought Helsinki agreements,<sup>57</sup> Helsinki has thrived while MBFR has languished. Similarly, because of preoccupation with nuclear arms as a separate focus, the West has failed to link Soviet no-first-use-of-nuclear-weapons proposals with progress in Warsaw Pact conventional force reductions in MBFR, which is, of course, the core problem for the West in such proposals. Moreover, as the Europeans' reactions to the

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53. London Naval Conference, *supra* note 27.

54. Washington Naval Conference, *supra* note 26.

55. Treaty of Friendship, Cooperation, and Mutual Assistance (Warsaw Pact), May 14, 1955, 219 U.N.T.S. 3.

56. See Stanley, *Conventional Arms Control in Europe*, 7 SAIS REV. 23 (1987)(discussing early negotiations among NATO and the Warsaw Pact since 1973 on Mutual and Balanced Force Reductions, and its present status).

57. Conference on Security and Cooperation in Europe: Final Act, 14 I.L.M. 1292, 73 DEP'T ST. BULL. 323 (1975).



prospect of deep cuts in central nuclear systems and a partial decoupling of American intermediate nuclear systems at the Reykjavik Summit show, Europeans are quite aware of their continuing vulnerability from the conventional imbalance and their resulting strategic dilemma.<sup>58</sup> Bearing in mind that two out of the five most destructive wars in American history, Korea and Vietnam, have been fought since the advent of nuclear weapons and without their use, we should also remember it is very important to deter conventional as well as nuclear conflicts. Because of the understandable preoccupation with nuclear weapons there may be a widespread underemphasis of the horrors of modern conventional war and the importance of preventing it.

Fourth, there may also be popular overexpectation as to what arms control—even dramatic arms control—may achieve. Arms control *is* of great importance in seeking to enhance stability and hopefully moving to lower levels of forces on all sides while building systems confidence. But it can also be oversold. The most far-reaching proposals currently being considered between the United States and the Soviet Union would still leave 5,000 nuclear warheads targeted at both sides, and getting to such deep reductions means solving verification, compliance and control of future technology issues not yet resolved on a far lesser scale.<sup>59</sup> Reductions to numbers of weapons less than sufficient to devastate society as we know it may simply be impossible consistent with any likely breakthroughs in verification, control of future technologies and compliance. In this connection, remember that proposals in the 1960s for sweeping disarmament as opposed to arms control<sup>60</sup> have been largely abandoned as governments have come face-to-face with the reality that by the mid-1960s we could no longer verify the number of warheads produced worldwide.

Fifth, accepting nuclear arms control as the centerpiece of East-West dialogue may have certain non-reciprocal costs for the democracies in the overall East-West struggle. Democracies are properly responsive to the wishes of the people and there is a risk that focus on arms control

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58. See generally Yost, *The Reykjavik Summit and European Security*, 7 SAIS REV. 1 (1987) (discussing the four main topics of concern to Western Europe discussed at Reykjavik: the tentative agreement on intermediate-range nuclear forces (INF); the proposals for strategic force limitations; the goal of complete nuclear disarmament; and conflicting views on future limitations on ballistic missile defense).

59. See Hildreth, *U.S. and Soviet Arms Control Proposals, March 1985-May 1987*, 8 CONG. RES. SERVICE REV. 10 (1987) (describing briefly the proposals for strategic arms reduction, intermediate-range nuclear forces, and defense and space issues).

60. See Stanley, *supra* note 56, at 25 (discussing the move by the United States and NATO allies in the mid-1960s to discuss plans for Mutual and Balanced Force Reductions between NATO and the Warsaw Pact as a counter to Soviet Union proposals for a European Conference to discuss disarmament in Europe).

may become focus on unilateral restraint. If political expectations for war avoidance center on a forever elusive core arms control agreement some may assume that unilateral restraint or reductions in strategic systems may be just as effective as mutual arms control. Yet wherever strategic instability is already a problem, such unilateral actions could dangerously undercut stability and deterrence and, paradoxically, may also reduce the chances for arms control. Many would urge that American arms programs are part of an action-reaction cycle contributing to the arms problem and that there is ample room for unilateral restraint. Many others would as sincerely urge that American policies toward development and deployment of new strategic systems in relation to the momentum of Soviet programs have skirted dangerously close to undermining strategic stability and deterrence. Similarly, a single focus on strategic systems of both East and West plays to the morally bankrupt position that East and West are equivalent risks to world stability. The fundamental issue is not perceived as willingness to abide by fundamental norms of the United Nations Charter prohibiting aggressive war<sup>61</sup> and supporting self-determination,<sup>62</sup> but rather the simple existence of equivalent nuclear arsenals. Historically a core problem of democracies in war avoidance has been perceiving and deterring radical regime and totalitarian aggression. The widespread resort to secret warfare in the contemporary international system exacerbates these tendencies in the democracies. A focus of negotiation that centers on achieving rough equivalence in strategic nuclear systems certainly does nothing to assist populations in democracies to understand the real and quite different threats posed by totalitarian and radical regimes. This might be summarized by saying that there is no high ground—as rightfully there should be—for the democracies when the almost exclusive focus of dialogue is the number of strategic delivery vehicles or warheads.

Finally, an overemphasis on nuclear arms negotiations may undercut serious efforts at progress on other world order dimensions. While recent United States-Soviet Summit agendas have been broadened to include “regional” issues such as Afghanistan, Central America and important human rights issues,<sup>63</sup> the nuclear arms issues have overwhelmed these issues as illustrated by the worldwide media focus

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61. U.N. CHARTER art. 2, para. 4. This paragraph denounces the use of aggression as a means of international dispute resolutions. *Id.*

62. *Id.* art. 2, para. 1.

63. See Renge, *The Other Issues on the Mini-Summit Agenda*, U.S. NEWS & WORLD REPORT, Oct. 13, 1986, at 1 (noting that while arms control was the big issue at the summit, human rights and regional conflicts were also on the table).

at Reykjavik on these arms issues to the virtual exclusion of the agenda issues on regional conflicts and human rights.

Just as a preoccupation with nuclear arms control may have costs associated with overemphasizing nuclear arms issues, so may it impose costs in underemphasizing other important world order strands. First, it may divert attention from a range of *non-nuclear* but extremely important *arms control issues*. Central among these is the need to address the fundamental strategic dilemma for NATO of restoring a conventional balance by reductions in Soviet-Warsaw Pact forces. Almost all NATO political leaders have recognized that NATO is unlikely to make the political/economic choices necessary to balance Soviet-Warsaw Pact conventional superiority. It is this real-world political unwillingness to match Warsaw Pact conventional forces that has produced flexible response and two-track intermediate nuclear strategies. Surprisingly little attention has been paid by Western leaders or Western public opinion to means of increasing pressure on the Soviet Union for unilateral conventional force reduction as an alternative or supplement to Western strategy. The result has been a hard-line Soviet stance in the Mutual and Balanced Force Reduction Talks and exceedingly limited progress in these protracted negotiations. Similarly, little attention has been paid to limitations on conventional arms in Central and South America.

Second, it is likely that the preoccupation with nuclear arms control and nuclear deployment decisions is one factor in an astonishing Western underemphasis on fundamental international legal norms prohibiting aggressive attack, whether overt or covert. A root condition of world order is a willingness of all nations to forego the use of military force as a modality of major change of the international system, whatever the differences between political systems and however intense the competition in other spheres. This principle is embodied as a core standard of world order by the United Nations Charter<sup>64</sup> and may be the most important human insight about war prevention in 2000 years of human thought about the subject. That is, aggressive attack, whether open or secret, is prohibited and the test of the lawfulness of major coercion against another state largely rests on whether it is acting in defense against this impermissible aggression.<sup>65</sup> As an important companion principle, every nation has a right to its own self-determina-

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64. U.N. CHARTER art. 2, para. 4.

65. *Id.* art. 51 (discussing the inherent right of self-defense in case of armed attack).

tion and choice of political system.<sup>66</sup> Yet today little is heard about these principles. Even more seriously, the core contemporary threat to world order is secret aggressive attack through state supported terrorism, coups and guerilla struggles. This secret warfare, while a major concern, has produced a startlingly small focus on the impermissibility of such attack as a deterrence method to assist in deterring such attack, and it has made it increasingly difficult for the democracies to accurately perceive threats.

Finally, there are a host of other strands in war prevention deserving of attention and at least some of their relative neglect may stem from the current preoccupation with nuclear arms control. The United Nations has deteriorated markedly since its formation as a serious body for conflict management. While there are likely to be no quick fixes, efforts to strengthen the organization deserve more focused Western attention. Similarly, while the effort to have the World Court deal effectively with ongoing wars seems misplaced and likely only to damage the institution, greater attention should be accorded to ways of strengthening the Court for the resolution of disputes, such as oceans-boundary disputes, where the Court may make a significant overall contribution to the total problem of international conflict management. Enhanced efforts at diplomatic solutions to intractable conflict may in some settings yield dividends, as the Kissinger shuttle diplomacy and the Camp David Accords<sup>67</sup> have illustrated. Is there, for example, an opportunity for American shuttle diplomacy in seeking to resolve the Greece-Turkey Aegean<sup>68</sup> problem? And newer modes of thinking about negotiations, as well as second track diplomacy involving citizen-to-citizen exchange, could make a contribution to enhancing diplomacy and strengthening leadership perspectives for peace. We should remember that just as there is likely to be no single cause of war (though some causes such as a failure of deterrence may be of particular recurring significance) there is no single route to peace. Certainly the effort to pursue one admittedly important and central route should not contribute to the neglect of others.

## B. A PROPOSED NEW APPROACH: WORLD PEACE ACCOUNTABILITY

Having briefly reviewed some of the problems associated with a con-

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66. *Id.* art. 2, para. 1 (declaring respect for the equal sovereignty of each state).

67. Camp David Agreements, Sept. 17, 1978, Egypt-Israel-United States, 17 I.L.M. 1463, reprinted in *The Camp David Summit*, DEP'T ST. PUB. 8954 (1978).

68. See *A Nasty Squall in the Aegean*, THE ECONOMIST, Apr. 4, 1987, at 38-39 (discussing the recurring and seemingly insoluble Greek-Turkish dispute over Aegean Sea oil).

temporary search for peace focused almost exclusively on nuclear arms control, is there an alternative? I believe that there is, that it offers better opportunity for enhanced international conflict management, that it offers substantial advantages for the democracies, paradoxically that it even offers enhanced long term potential for meaningful arms control, and finally that it is surprisingly obvious once we transcend our understandable preoccupation with nuclear weapons.

The alternative is quite simple. The West should broaden the East-West dialogue and the international public debate to include the full range of strands in conflict management, but giving particular attention not only to arms control but also to the fundamental underpinning of world order that aggressive attack is impermissible, whether overt or covert. Arms control efforts within such a broadened focus should also be broadened to include an enhanced focus on the conventional balances in Europe, Asia, and Latin America.

This approach is emphatically not an argument against the importance of effective nuclear arms control. Nor is it even an argument for negotiating linkage between arms control and non-arms control issues. It is a recognition that the range of East-West concerns is far broader than nuclear arms control alone and that there is almost certainly a major long-term milieu linkage between the state of East-West relations and the prospects of effective arms control. It is also a recognition that the cornerstone of world order is acceptance by all nations of the fundamental Charter prohibition of aggressive attack,<sup>69</sup> whether overt or covert. Any approach that neglects this latter principle, particularly in a world threatened by expanding secret warfare, is severely stunted and may inevitably destroy prospects for serious arms control.

In recent years there has been increasing understanding that engagement beyond nuclear arms control is essential for peace. As such, there has begun a new realism in United Nations deliberations (anything else is to doom the UN to irrelevance), and summit meetings have been broadened to include "regional"<sup>70</sup> and "human rights"<sup>71</sup> issues. In my

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69. U.N. CHARTER art. 2, para. 4.

70. See, e.g., Wren, *Afghanistan May be Topic in Iceland*, N.Y. Times, Oct. 3, 1986, at A3 (reporting that Soviet Foreign Minister Eduard Shevardnadze expected a discussion of the Soviet presence in Afghanistan at the Iceland Summit in October, 1986); Gwertzman, *U.S. Stressing Human Rights and Regional Issues*, N.Y. Times, Oct. 10, 1986, at A12 (stating that American officials noted progress in a number of issues other than arms control, including regional issues, as indicia of success at the Iceland Summit); N.Y. Times, Oct. 10, 1986, at A13 (reporting that regional issues are one of five issues areas Reagan and Gorbachev were to discuss at Iceland Summit). See also G. WEHLMILLER, *U.S.-SOVIET SUMMITS: AN AGREEMENT OF EAST-WEST DIPLOMACY AT THE TOP, 1955-1985* (1986) (discussing the recent United States-Soviet Union summits).

judgment, however, these are but first halting steps in revising a pattern as entrenched as only widely shared "conventional wisdom" can make it. Additional steps that might be taken to broaden the dialogue and public perceptions about effective ways to promote peace are legion.

First, a new approach should have a conceptualization that will encourage broader thinking about its realization. A concept of "regional" talks will not inspire democratic opinion, however sound. Rather a broader conceptualization is needed rooted in fundamental principles of world order. Just as the conceptualization about a "human rights" dialogue has developed an important and correct following I believe that a focus on what might be termed "world-order accountability" or "world-peace accountability" offers substantial benefit for enhanced global understanding. Democratic nations should be perceived as, and should be, actively pursuing peace in all its dimensions, not just nuclear arms control. And most importantly they should be perceived as pursuing a principle of world order—rooted in democratic belief—that overt and covert aggression should be strongly and continuously condemned in international relations and that self-determination and human rights must be respected. Indeed, it is a strange paradox of the current East-West dialogue that human rights issues, certainly of great importance, have a position of prominence, yet world-order as a generic issue does not. The West probably has only limited ability (although the effort and limited results are of great importance) to enhance human rights in totalitarian and radical regimes. But surely the West should insist on a cessation of aggressive attacks as a critical ingredient of world order. Strangely here, where the ability to influence and deter may be higher, the effort by the West is less visible.

Second, the newer approach should be implemented across a broad range of fora. Thus, it should be pursued actively with American allies in diplomatic and heads-of-states meetings going beyond the previous narrow focus, however useful, in past terrorism communiqués. In addition to specific conflicts and issues the focus should include a return to the basics of democratic beliefs against aggressive attack and for self-determination and human rights. Similarly, it should be pursued across

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71. See, e.g., Dole, *The Summit's Promise*, N.Y. Times, Oct. 8, 1986, at A35 (arguing that human rights are as deserving of discussion at summit conference at Reykjavik as arms control issues); N.Y. Times, Oct. 9, 1986, at A10 (reporting that Secretary of State George Shultz said that human rights would be high on the agenda at the Iceland Summit); N.Y. Times, Oct. 11, 1986, at A1 (noting that status of Soviet Jews emerged as a central topic of discussion at the Reykjavik Summit). See also M. COOPER, *U.S. SOVIET SUMMITRY* (1985) (discussing recent summit meetings).

a range of bilateral and limited multilateral East-West fora, including summits, the CSCE (Helsinki) process,<sup>72</sup> and possibly a new United States proposal for a dedicated East-West negotiating track on enhancing world peace. An obvious place for a beginning would be future Helsinki review conferences and spin-off conferences such as the recently concluded Stockholm Conference on Security in Europe.<sup>73</sup> In addition, the United States should actively pursue the new approach within the United Nations, regional organizations such as NATO, ANZUS, and the OAS, and with third world countries through a more active diplomatic focus on the problems and requirements of world peace. In this connection we should tirelessly emphasize the twin principles of prohibition of aggression and the right of effective defense against aggressive attack and we should fully expose and focus attention on the growing threat of secret warfare. We should strongly and consistently introduce the new theme in American and democratic nations public affairs diplomacy. One heuristic device in this connection might be a new country-by-country world order or "peace" accountability report to parallel the yearly human rights report from the State Department. And we should seek to enhance Western public affairs reporting in these themes in general, for example, with coordinated white papers on secret war and individual terror attacks. In the long run, enhanced effectiveness of such a new approach by the democracies will depend on citizen support around the world and particularly within the democracies.

Finally, a new approach, while not downgrading nuclear arms control, should engage on a broader range of strands for conflict management. These include not only the additionally emphasized focus on world order accountability in avoiding overt or covert aggressive attack, but also enhancing diplomacy and diplomatic process, enhancing coordinated democratic nations' efforts (and within the United States coordinated Executive-Congressional efforts) at deterrence, sharpening the

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72. Conference on Security and Cooperation in Europe: Final Act, 14 I.L.M. 1292, 73 DEP'T. ST. BULL. 323 (1975).

73. See, e.g., N.Y. Times, July 1, 1986, at A14 (reporting that NATO offered compromises to reach an agreement with Warsaw Pact side before the Conference deadline and that the Canadian delegate proposed raising the threshold for advance notification of military maneuvers); N.Y. Times, Aug. 20, 1986, at A6 (noting that the Soviet delegation said at the Stockholm Conference that it is willing to accept on-site inspections of troop movements); Lewis, *East and West Reported Near Accord on Security*, N.Y. Times, Sept. 20, 1986, at A5 (reporting that both NATO and Warsaw Pact diplomats said that they were close to a pact that would prevent either side from launching a surprise attack in Europe, although important issues remained unresolved). See generally Borawski, Weens & Thompson, *The Stockholm Agreement of September 1986*, 30 ORBIS 643 (1987) (providing a summation of the Stockholm Conference).

laws of war (particularly in low-intensity warfare and possibly nuclear targeting), strengthening international organizations, strengthening international efforts against terrorism, enhancing third party dispute settlement where effective for particular conflicts and enhancing non-nuclear arms control, particularly the core need for avoidance of conventional imbalance. Direct negotiating linkage of any of these issues with nuclear arms control (with the possible exception of MBFR conventional balance issues<sup>74</sup> and no-first-use) is probably not wise and is not the point. The point is that failure to include fundamental world order issues in East-West dialogue for accountability and improvement is to reduce deterrence against such behavior and to fail to address a fundamental world order linkage with effective arms control whether or not linked directly in a negotiating sense. The Soviet battalion in Cuba<sup>75</sup> and more importantly the Soviet invasion of Afghanistan, after all, stopped the SALT II Treaty before it even got to the Senate to be evaluated on its merits as an arms control agreement.

#### CONCLUSION

Nine out of the eleven summits between American and Soviet leaders since World War II have focused centrally on nuclear arms control.<sup>76</sup> This focus is illustrative of how the East-West agenda has been dominated by nuclear arms control issues. It is, of course, understandable in view of the horror of nuclear weapons that we should have a preoccupation with their control. It does not follow from this understandable preoccupation, however, that we are correct in assuming that such a focus *alone* is the best way to secure the peace or even through time to secure more effective arms control. There is a strong case that the West should broaden the dialogue to include a full range of issues important for securing the peace, with emphasis on an expanded arms control agenda and accountability talks concerning strengthening the fundamental Charter prohibition against aggressive attack.<sup>77</sup> It might be appropriate for the Policy Planning Staff at the Department of State, the Arms Control and Disarmament Agency, the National Security Council, and a wide variety of university and specialized conflict management programs to examine carefully the costs and benefits of

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74. See D. SKAGGS, MR UPDATE: MBFR (1987) (discussing the Mutual and Balanced Force Reduction Talks).

75. See D. FERNANDEZ, CUBA'S FOREIGN POLICY IN THE MIDDLE EAST (1988) (discussing the Soviet battalion in Cuba).

76. See N.Y. Times, Oct. 5, 1986, at D1 (providing a chronology, beginning in 1955, of Summit Conferences between the United States and the Soviet Union).

77. U.N. CHARTER art. 2, para. 4.



such an enhanced and more vigorous Western engagement in the East-West dialogue.

Whatever the merits of this proposal we must as a nation strengthen serious scholarly study of conflict management in all its dimensions. The University of Wisconsin and the Wisconsin Institute for the Study of War, Peace, and Global Cooperation should be congratulated for their dedication to that goal.

Thank you.