

What does the felling of the monument mean?

Let us not avert our eyes before this revolution in world affairs: the normative authority of America lies shattered

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The whole world was watching, that 9th of April in Baghdad, as American soldiers placed a noose around the neck of the dictator, watched as the tyrant is felled from his pedestal in a most symbolic act, in front of a jubilant crowd. First the apparently immutable monument wobbles, then it falls. Before it crashes liberatingly to the ground, gravity fights the grotesquely unnatural horizontal position in which the massive figure, gently see-sawing up and down, poises for one last disturbing second. Like the perception of a picture-puzzle ‘flipping’, so the public perception of the war seems to switch with this image. The morally obscene spread of shock and fear amongst a mercilessly bombarded, starved and helpless population transforms itself on this day, in the Shiite quarter of Baghdad, in the enthusiastically greeted liberation of citizens from terror and repression. Both perceptions contain a kernel of truth, even if they evoke contradictory moral feelings and attitudes. Must the emotional ambivalence lead to contradictory judgments?

On the face of it everything is straight-forward. An illegal war is still an offence against international law even if it should lead to consequences that are normatively desirable. But is that the end of it? Undesirable conse-

1 Translation of: „Was bedeutet der Denkmalsturz?“ in: *Frankfurter Allgemeine Zeitung*, 19.4.2003, p. 33.

quences can negate a good intention. Couldn't perhaps favorable consequences unfold, retrospectively, a legitimating influence? The mass graves, the subterranean cells and the reports of the tortured leaves no doubt about the criminal nature of the regime; and the liberation of a tormented population from a barbaric regime is a high good, the highest under the politically desirable goods. In this respect the Iraqis pronounce, whether they celebrate, loot, suffer apathetically or demonstrate against the occupiers, a judgment upon the moral nature of the war.

With us [in Germany] two kinds of reactions have become apparent in the political sphere. The pragmatists believe in the normative power of the factual and place their faith in a practical judgment which, with an eye on the limitations which politics imposes on the realization of morality, pays its respects to the fruits of victory. In their eyes carping about the justification of the war is fruitless, since this has now become a historical fact. The others, whether capitulating before the power of the factual out of opportunism or out of conviction, brush what they hold to be the dogma of international law aside with the argument that the latter – full of post-heroic squeamishness against the risks and costs of military force – refuses to acknowledge political freedom as the true good. Both of these reactions are off the mark, since they give in to an affect against the ostensible abstractions of a 'bloodless moralism' without clarifying for themselves just what it is that the neo-conservatives in Washington are offering as an alternative to the domesticization of state force by international law. For the neo-conservatives confront the morality of international law not with realism or with the bathos of freedom but with a quite revolutionary perspective: when international law fails then the politically successful hegemonic enforcement of a liberal world order is morally justifiable even when it seeks recourse to means which are indefensible in the light of such international law. Wolfowitz is not Kissinger. He's much more a revolutionary than a power-cynic. Certainly, the superpower reserves for itself the right to act unilaterally – and bring to bear, if necessary, even preventively, all available military means – to strengthen its hegemonic position against possible rivals. But global power ambition is not an end in itself for the new ideologues. What distinguishes the neo-conservatives from the school of the 'realists' is the vision of an American world political order which has jumped the reformist rails of the UN policies on human rights. It does not betray the liberal goals, but it does break the civilizing bounds which the charter of the United Nations placed with good reason upon the process of goal-realization. The world organization is certainly not yet in a position, today, to force deviant member states into offering their citizens a demo-

cratic and rule-of-law based order. And the highly selectively pursued human rights policies are subject to the proviso of implementability: the veto-power Russia has no cause to fear an armed intervention in Chechnya. Saddam Hussein's use of nerve gas against his own Kurdish population is but one of many instances in the scandalous chronicle of the failure of the community of nations, which looks the other way even in cases of genocide. All the more important is hence the core function of peace-keeping, on which the existence of the United Nations is based – i.e. the enforcement of the ban on wars of aggression, with which, after World War II, the *ius ad bellum* was abolished and the sovereignty of individual states curtailed.

With that, classical international law had at least taken one decisive step in the direction of a cosmopolitan legal order. The United States – which for half a century could claim to be a pacemaker on this road – has, with the Iraq war, not only destroyed this reputation and given up the role of a guarantor power in international law; with its violation thereof she sets future superpowers a disastrous example. Let's not kid ourselves: America's normative authority lies shattered.

Neither of the two conditions for a legally justifiable use of military force were fulfilled: neither the situation of self-defense against an actual or imminent attack, nor an authorized decision by the Security Council in accordance with Chapter VII of the UN Charter. Neither Resolution 1441 nor one of the seventeen preceding and ('used-up') Iraq resolutions could count as sufficient authorization. Something which the alliance of the war-willing confirmed performatively, for that matter, by first of all seeking a 'second' resolution, and then withdrawing it when it became clear that they would not be able to count even on the 'moral' majority of the non-veto members. Finally the whole procedure was turned into a farce by the President of the United States declaring repeatedly that he would act, if necessary, without a mandate of the Security Council. In the light of the Bush Doctrine the military build-up in the Gulf lacked from the outset the character of a mere threat. This would have presupposed the avertibility of the threatened sanctions. The comparison with the intervention in Kosovo also offers no exoneration. It is true that an authorization by the Security Council in this case was not reached either. But the retrospectively obtained legitimation could be based upon three circumstances: on the prevention – as it seemed at the time – of an ethnic cleansing in the process of taking place, on the imperative – covered by international law – of emergency assistance holding *erga omnes* for this case, as well as the incontrovertibly democratic and constitutional character of all the member states of the ad hoc military alliance. Today the normative controversy is dividing

the West itself. Admittedly, a remarkable difference in the argumentative strategies between the continental European and the Anglo-Saxon powers had begun to manifest itself already then, in April of 1999. While the one side drew from the disaster of Srebrenica the lesson that military intervention was necessary to close the gap between efficacy and legitimacy which earlier missions had revealed – to make headway in the direction of a fully institutionalized world civil rights – the other side was content with the goal of spreading its own liberal order elsewhere in world, by force if necessary. At the time I ascribed this to differences in the respective legal traditions – Kant’s cosmopolitanism on the one hand, John Stuart Mill’s liberal nationalism on the other. But in the light of the hegemonic unilateralism which the policy theorists of the Bush Doctrine have been pursuing since 1991 – as Stefan Fröhlich showed in this newspaper on 10th April – one could surmise, with hindsight, that the American delegation was already pursuing the negotiations of Rambouillet from this novel perspective. Whether this is true or not, George W. Bush’s decision to consult the Security Council is at any rate no longer based on a desire – internally long since regarded as superfluous – for authorization by international law. This backing was sought only because it could have increased support for the „Coalition of the Willing“ and allay reservations within the domestic population. At the same time we should not read the new doctrine as an expression of normative cynicism. Functions like that of the geo-strategic consolidation of spheres of power and of resources which such a policy may *also* fulfill may tempt one to adopt a critique-of-ideology approach. But this conventional explanation trivializes the break – inconceivable even a year-and-a-half ago – with the norms to which the United States has been committed until now. We’d be well advised not to spend time on a search for motives, but rather to take the new doctrine at its word. Otherwise we’d misread the revolutionary character of a re-orientation based on the historical experiences of the past century. The historian Eric Hobsbawm quite rightly named the 20th „the American“ Century. The Neoconservatives could see themselves as the ‘victors’ and regard the controversial successes – the reorganization of Europe and the Pacific/South East Asian area after the defeat of Germany and Japan, as well as the transformation of Eastern as well as Eastern and Middle-European societies after the disintegration of the Soviet Union – as a model for a new world order. From the point of view of a liberalistically read post-histoire à la Fukuyama this model has the advantage of being able to dispense with the complicated justification of normative goals: what more could people possibly want than the world-wide spread of liberal nations and the globaliza-

tion of free markets? The road hence is also clear: Germany , Japan and Russia have been forced to their knees by war and the arms race. Military force is an all the more attractive option today as in asymmetric wars the victor is in any case an a priori certainty. Wars which improve the world require no further justification. At the price of negligible collateral damage they remove unambiguous evil, which under the aegis of a powerless community of nations would otherwise persist. The Saddam falling from his pedestal is the argument which suffices as justification.

This doctrine was developed long before the terrorist attack on the Twin Towers. The cleverly instrumentalized mass psychology of the shock of 11 September did however first of all create the climate within which this doctrine could find broad support – if in a somewhat modified version, that of the „War against Terrorism“. That it should come to a head in the Bush Doctrine is something it owes to the definition of a novel phenomenon in the familiar concepts of conventional warfare. In the case of the Taliban regime there was indeed a causal connection between a terrorism difficult to pin down and an attackable ‘rogue state’. According to this model it is possible to adapt the classical conduct of war between nations to deal with that treacherous danger posed by diffuse and globally operating [terror-]networks. Compared to the original version this connection of hegemonic unilateralism with defense against an insidious danger mobilizes the additional argument of self-defense. At the cost however of then being saddled with a a new burden of proof. The American administration had to seek to convince world public opinion of contacts between Saddam Hussein and Al Qaida. This dis-information campaign was for all that successful enough domestically for 60% of Americans – according to the most recent opinion polls – to greet the regime change in Iraq as „expiation“ for the terrorist attack of 11th September.

But for the preventive use of military means the Bush Doctrine does not really provide a plausible explanation. Since the para-statal violence of the terrorists – the „war in peace“ – is not graspable with the categories of war between nations it doesn’t ground in the least the need to weaken the notion of national self-defense (strictly regulated in international law) in the direction of preemptive military action. Against the globally networked, decentralized and invisibly operating enemies what is of use is prevention at a different operative level. Here what is of use are not bombs and rockets, not airplanes and tanks, but the internationally connected national intelligence- and police services; the control of monetary channels, the tracking down of logistic connections in general. The corresponding „security programs“ impinge not on international law but on nationally guaranteed civil rights.

Other dangers, arising from the failure (America 's own fault) of a politics of non-proliferation of ABC weapons is in any case more manageable through negotiations than through wars of disarmament – as the reserved reaction to North Korea shows. A doctrine concentrating on terrorism does not i.e. provide, compared to the directly pursued goal of a hegemonic world order, an increase in legitimacy. The Saddam felled from his pedestal remains the argument – symbol for the liberal reorganization of an entire region. The Iraq war is a link in the chain of a global politics which justifies itself by claiming that it has replaced the unavailing Human Rights policies of a used-up world organization. The United States takes over as it were the mandate in which the United Nations failed. What's to be said against this?

Moral feelings can lead one astray, since they stick to individual scenes, to specific images. There's no way of avoiding the question of the justification of the war in general. The decisive controversy revolves around the question whether justification in the light of international law can and should be replaced by the unilateral global politics of a self-empowering hegemon.

The empirical objections to the feasibility of the American vision boil down to the way world society has become too complex for it still to be steerable from some central point, based on a politics of military force. The fear of terrorism experienced by the technically highly-armed superpower seems to express the Cartesian fear of a subject seeking to turn itself and the world around it into an object, in order to bring everything under control. It is a politics which, in the horizontally connected media of the market and of communication, begins to fall behind, regressing to the original Hobbesian primordially of a hierarchical security system. A nation which reduces all options to the dumb alternatives of war and peace runs up against the limits of its own organizational powers and resources. It also leads the negotiation with competing powers and foreign cultures in false channels and pushes the coordination costs to dizzying heights.

Even if this hegemonic unilateralism were realizable it would still have side-effects which would, by its own criteria, be morally undesirable. The more political power manifests itself in the dimensions of military, secret service and police, the more does it undermine itself – the politics of a globally operating civilizing power – by endangering its own mission of improving the world according to liberal ideas. In the United States itself the permanent regime of a „War President“ is already undermining the foundations of the rule of law. Quite apart from the practiced or tolerated torture methods beyond its borders, the war regime is not only denying the prisoners of Guantánamo Bay the legal rights conferred on them by the Geneva

Convention. It confers powers on the security services which encroach on the constitutional rights of its own citizens.

And what about the really counterproductive measures the Bush Doctrine is likely to demand in case of the by no means unlikely scenario of the citizens of Syria, Jordan, Kuwait and so on making unfriendly use of the democratic rights which the American Government has so kindly made them a present of? In 1991 the Americans liberated Kuwait – democratize it they did not. Most of all it is the superpower’s presumptuous trusteeship which is criticized by its coalition partners, who are, for good normative reasons, unconvinced by the unilateral leadership claim. There was a time when Liberal Nationalism felt itself justified in propagating the universal values of its own liberal order throughout the world, with military backing where needed. This self-righteousness does not become any more sufferable by it being ceded from the nation State to a hegemonic power. It is the very universalistic core of democracy and human rights itself which forbids its universal propagation by fire and sword. The universalistic validity claim which the West associates with its ‘political core values’ – i.e. with the procedure of democratic self-determination and the vocabulary of human rights – may not be confused with the imperial demand that the political life-form and culture of a particular democracy, and be it the oldest, is to be exemplary for all other societies. Of this order was the ‘universalism’ of those ancient empires which perceived the world beyond their borders – shimmering on a distant horizon – from the central perspectives of their own world-views. The modern self-understanding is on the contrary marked by an egalitarian universalism which insists on the de-centering of each specific perspective; it requires the relativization of one’s own interpretive perspective from the point of view of the autonomous Other.

It was American Pragmatism itself which made insight into that which was good and just to all parties concerned dependent upon a reciprocal acceptance of mutual perspectives. The reason upon which modern rational law is based is not expressed in the validity of universal ‘values’ capable of being owned, exported, and distributed globally. ‘Values’ – including those for which one could expect global recognition – don’t hang in the air; they become binding only in the normative order and practices of specific cultural forms of life.

When in Nasiriya thousands of Shiites demonstrate against Saddam and the American occupation, they bring to expression that non-Western cultures must appropriate the universalistic content of human rights from within their own resources and within an interpretation which can make a convincing connection to local experiences and interests. For that reason

the multilateral formulation of a common purpose is not one option amongst others – especially not in international relations. In its self-chosen isolation even the good hegemon, presuming for itself trusteeship in the name of the common good, has no way of knowing whether the actions it claims to be in the interests of others is indeed equally good for all. There is no meaningful alternative to the further cosmopolitan development of an international system of law in which the voices of all concerned are given an equal and reciprocal hearing.

The world organization has not as yet suffered irreparable damage. Since the ‘smaller’ members did not buckle under to the bullying of the larger ones it has even grown in stature and influence. The reputation of the world organization can be damaged only by its own actions: if it should seek to ‘heal’ by compromise what cannot be healed.

[transl. Frederik van Gelder]