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Questions and Open Discussion

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Questions and Open Discussion

DOUGLASS CASSEL:

¶1 We are going to have now a half hour for discussion. I would like to begin with one cheap shot to Joshua. I would very much like to see your predictions of the growth of the economic, military and technological prowess of China during the twenty-first century. If you project that they will not catch up with us, then I would agree with you that this is not the time of maximum American power. You will have a chance to reply in due course.

¶2 Lord Hannay, would you like to respond to some of the remarks made about your report?

SIR DAVID HANNAY:

¶3 Thank you. Very briefly because a lot of very valid points were made, and I certainly did not intend to pick them all up. Sometimes I felt myself back in the Panel meetings, hearing the discussions that went on there on various points. That I thought was interesting, because it validated the view that you had sixteen individuals from the four corners of the earth who were not chosen by governments – they were chosen by the Secretary-General – but they did reflect a lot of thinking from different parts of the globe and those different strands of thought were demonstrated in the two really excellent panels this morning.

¶4 Just one or two points.

¶5 On enlargement of the Security Council, it was, I am afraid, a lose-lose situation. There was never going to be one single Panel recommendation on that which would not have raised controversy.

¶6 If we had said, “No recommendation, just get on with it, no formulas,” which I have to confess to you was my first preference personally, we would have been criticized for cowardice and ducking an important issue. If we had produced a single proposal, we would have been criticized for that. So we produced two formulas, and we are being criticized for that.

¶7 There was no-win situation there. I think myself that we came out with the least bad of the options, but that is not saying a lot because it is a subject which tends to drive everyone fairly mad when they get into it, depending on whether their sincere belief is in their own right to become a permanent member, or in their equally sincere belief that no one else should become one.

¶8 On the Commission on Human Rights, I knew we were going to have trouble about this because, of course, the proposal that the commission should be made universal is, I readily accept, counterintuitive. And all of you who have been commenting have tended to head off in the opposite direction, saying, “This is a very terrible thing that you have proposed because you are letting all these serial offenders into the Commission on Human Rights.”

¶9 Well, I would say to you two things. First, they are already there anyway, and there is not the slightest chance of getting them out completely. We looked at all the possibilities for applying criteria to the membership of the Commission on Human Rights, and we were perfectly clear in our minds that they would not work. The risk was that you would just waste even more time than you do now in diplomatic maneuvering. The proposal for universality on the Commission of Human Rights has two advantages.

¶10 One, it has the support of the High Commissioner for Human Rights, Louise Arbour, who knows a thing or two about these things and who is quite clear in her mind that this would be a step forward. Second, it does foreshadow the day in which the Commission on Human Rights would become a full institution under the Charter equal to the General Assembly and to ECOSOC.

¶11 But, what you all missed as you dashed off over the horizon saying how terrible it was to have universal membership is there are some other proposals which are designed to strengthen the commission. The most important is the establishment of a panel of about fifteen human rights experts, who would be chosen by the Commission, but on the recommendation of the High Commissioner of Human Rights and the Secretary-General.

¶12 Well, if that limiting condition does not get fifteen people who are genuinely committed to human rights, I would be very surprised. In my own experience in European institutions, you find that if you have a body like this which is preparing the meetings, it becomes much more difficult to move away into the area of diplomatic maneuver which is what the Commission on Human Rights has become. Now, the proof of that will be if this is set up.

¶13 I would argue that you should look very carefully before saying universal membership is a bad thing. Do not forget also that you may get the worst of the bad already in a fifty-three-member commission, but there are an awful lot of silent best of the good who never come there at all. They will be there if there is universal membership.

¶14 Now, on weapons of mass destruction and not having taken any steps to say what happens there, it has all been done. The Security Council Summit of 1992 was quite clear. Proliferation of those weapons is a threat to peace and security. That means the whole Chapter VII is engaged on that issue. It is up to the Security Council to decide what action is to be taken.

¶15 If there is a breach of the treaty or of safeguard arrangements, the IAEA is obliged to come to the Security Council and you do not need to write anything more down, you just need to do something about it.

¶16 Another familiar problem. There has been a lot of criticism from the third world about the lack of substantive content to what we proposed on development and on economic and social problems. We were again in a no-win situation. If we had come up with a very elaborate set of proposals on this, knowing that Jeffrey Sachs was about to produce his thousand-page paper,¹ knowing that Kofi Annan wanted to have the ability to move from the Jeffrey Sachs paper to a set of proposals, we would have created massive confusion. So, we had to content ourselves with some relatively modest proposals which, frankly, should not be seen as the center of the Panel's report.

¹ UN MILLENNIUM PROJECT, *INVESTING IN DEVELOPMENT: A PRACTICAL PLAN TO ACHIEVE THE MILLENNIUM DEVELOPMENT GOALS* (2005), available at <http://www.unmillenniumproject.org/reports/fullreport.htm>

¶17 But that does not mean that we do not believe that the economic and social aspects of decision-making in 2005 are every bit as important as the peace and security ones. You can just imagine the confusion we would have created if we had done a full scale number on AIDS, poverty elimination, or what have you.

¶18 The final point I would like to make is that I am delighted to hear that somebody has discovered Article 47 of the UN Charter setting up the Military Staff Committee. You would be hard-pressed to find the military staff itself. The Committee meets for all of three minutes once a month when its members get together, agree that they have no items on the agenda, and resume their meeting a month later. It has been doing that for sixty years.

¶19 It is, if you look at it, the most extraordinary provision in the UN Charter, because it envisions all the military action in the world being decided by the joint chiefs of staff of the five permanent members – nobody else gets invited.

¶20 Now, I defy anyone to say that this is a provision that needs to be saved. The only supporter of it – and that Joshua may be interested to know – the only supporter of it, was the Soviet Union, and the Soviet Union's last representative on Earth finally agreed that it was not a very useful provision of the Charter and it could go. There we are.

¶21 It is probably time to go, wave it good-bye. It has never done anything useful; it never would do anything useful. We did, however, propose something else, which was that the Secretary-General's Military Adviser should make himself available on demand to the Security Council to give military advice, because many of the delegations on the Security Council do not have access to military advice. So, we did a little thing in return for the proposed deletion; but it was a little thing on top of a nothing.

DOUGLASS CASSEL:

¶22 Thank you very much, Lord Hannay. With that the floor is open.

AUDIENCE MEMBER:

¶23 I was impressed about five years ago by the speech that Richard Holbrooke gave to the UN in which he was very opposed to a lot of things the UN is doing. I think partly to put it in terms of what you were talking about, the social contract idea, that that is just bad no matter what, I am wondering whether this report addresses any of those concerns. I think they are shared by a lot of the American public.

DOUGLASS CASSEL:

¶24 Thank you very much.

AUDIENCE MEMBER:

¶25 Thank you. Adam Schefler. Briefly, does the report deal with or would you like to comment on the role of other prominent US-based institutions such as the World Health Organization and the International Labor Organization, those two in particular. I am extremely interested in how they are going to enact or have already been enacting some of this enormous development that was spoken of.

DOUGLASS CASSEL:

¶26 Trevor.

TREVOR ULBRICK:

¶27 I am Trevor Ulbrick, Editor-in-Chief of the Journal for International Human Rights here. I thank you all for coming.

¶28 Lord Hannay, you mentioned that the High-Level Panel almost immediately dismissed the idea of a rapid reaction force and I am wondering why, because in my mind this presents two problems.

¶29 First, only the United States really has the capability to project military power globally so it seems to put all the impetus on to the US military. Second, the fact that the rapid reaction force is not in place makes the threat of military force far less credible: we know how long it took for the UN to get peacekeeping troops together for Sudan.

¶30 I wonder if any of the panel, but particularly Lord Hannay, has comments on that.

DOUGLASS CASSEL:

¶31 Okay.

AUDIENCE MEMBER:

¶32 Picking up on the mention of the two-tiered system in the world and the fact that the Nuclear Non-Proliferation Treaty comes up for review in May of this year, any comments on the prospects for survival or not of the two-tiered system within the NPT?

DOUGLASS CASSEL:

¶33 Thank you.

AUDIENCE MEMBER:

¶34 You were talking about the American power. I do not know what implications this had but I am reading from the *Financial Times*, which is referring to the National Intelligence Council's report that had just come out on mapping the global future.

¶35 This is what it says: "The emergence of China and India, and possibly Brazil and Indonesia, as great powers will challenge the very concept of 'the west' as a coherent entity."²

¶36 So, they are talking about – this is their report. They are talking about an emergence. And just one other comment.

¶37 They also say in their 2020 report – and I do not know what implication this has – that average incomes will rise by fifty percent and the economy will be eighty percent bigger in 2020, and all of this will take place primarily in the poorer regions. So, they are

² Philip Stephens, *An American Map of the Future Bush Cannot Ignore*, FIN. TIMES, Jan. 21, 2005, at 17.

saying that the poorer regions will see fast economic growth and they are also identifying the powers that are on the verge of really becoming a real reality in 2020. I do not know if that is the implication.

DOUGLASS CASSEL:

¶38 Thank you for your question.

AUDIENCE MEMBER:

¶39 The recommendations seem to parallel the Leach Commission of some fifteen years ago.³ I wondered how the emergence of a majority of democratic states within the UN system might alter the kind of proposals that might be made in all of these areas.

DOUGLASS CASSEL:

¶40 Thank you.

AUDIENCE MEMBER:

¶41 Yes. I guess this question is geared more towards Sir David.

¶42 If you look at some of the, I think, really useful nuts-and-bolts proposals in the report, whether it is beefing up field-oriented affairs or shifting more imagination ability to the Secretary-General and creating sort of an intelligence capacity of the Secretariat, what all those have in common is that they are really shifting a lot of influence away from the member states. I guess we have one of the ambassadors still up there, but as the discussions have been proceeding, there seems to have been a lot of resistance to a lot of those proposals that are contained in your report.

DOUGLASS CASSEL:

¶43 Let's take one last question here.

AUDIENCE MEMBER:

¶44 The report alludes to two ongoing lengthy conflicts that the UN has failed to resolve over many decades.

¶45 One of them is: Is there a Palestine? President Bush recently stated his renewed hope that there might be a resolution of this conflict before the end of his current Administration in the year 2008. I was just wondering if any of you would like to comment both on the length of that, the duration of that conflict, and on whether or not you think the year 2008 corresponds to the report's use of the term "urgent."

³ See, e.g., Paul Lewis, *US Panel Splits on Ways to Improve the UN*, N.Y. TIMES, Sept. 13, 1993, at A13.

DOUGLASS CASSEL:

¶46 All right. I suggest that we now go in reverse order from before.

JOSHUA MURAVCHIK:

¶47 Well, a few quick points.

¶48 In terms of the question asked about would the emergence of a democratic majority within the UN change things, the reality is there is a democratic majority now and, to this point, not much has changed. It is a disappointing reality.

¶49 According to the current count by Freedom House, there are 117 of the governments of the world. That would make 116 of the members of the UN, because I did not include Taiwan, who are currently governed democratically and yet there has been little change.

¶50 Lee has been very active together with Freedom House in pushing for a democratic caucus in the UN and it would undoubtedly be a salutary step if you could get it. But, until this point, the large number of these democracies has been wedded to their membership in the nonaligned movement, and there has been all too little common action by the democracies in the UN.

¶51 In terms of the projections of power of the National Intelligence Council, these are the same people who have told you that weapons of mass destruction in Iraq was a slam dunk. Their ability to say what the world is going to look like fifteen years from now, I would say, is more or less zero. They are the same as if you went into any third grade class and asked the same question – these projections are notoriously empty.

¶52 What is true is that the underdeveloped world is now on a path of much more rapid economic growth, and it is a great blessing. It comes in large part as a result of having gotten out from under the advice of the United Nations, which for the first generation of independence of these countries advised them under the aegis of what was called dependency theory that they needed to have state-controlled economies in order to develop. Many of them took this advice, and there was widespread stagnation in the poor world countries. Eventually, everyone in the field of development of economics learned that this was exactly the wrong way to go from the example of the so-called four tigers of East Asia.⁴

¶53 Finally, to Sir David, I am sorry I was inarticulate. My point about Article 47 was not that I cherish the Military Staff Committee or hold a brief for the utility of its operations but rather that the emptiness of the Military Staff Committee is itself a function and a symbol of the emptiness of the entire structure of collective security that is set forth. It is not because of some idea that only these particular generals should offer military advice, but it is because states have persistently proven unwilling to absorb into themselves the risks involved in going to war for collective security. That, in fact, Kofi Annan himself acknowledged most pointedly when he said, “We cannot do peacekeeping where there is no peace to keep.”

⁴ The four tigers of East Asia refers to Hong Kong (a Special Administrative Region of the People's Republic of China), Singapore, South Korea, and Taiwan. See, e.g., Omar Saleem, *The Spratly Islands Dispute: China Defines the New Millennium*, 15 AM. U. INT'L L. REV. 527, 535 n.35 (2000); Howard Shapiro, *CLE Conference The Tides of Trade: The Four Tigers*, 2 INT'L LEGAL PERSP. 87, 87 (1990).

¶54 That is, the mission of the UN has been defined down from collective security in which the peace would be enforced by the UN – and that is what the Military Staff Committee was a symbol of – to one in which, when peace agreements have been made, the UN can provide a kind of militarized good office to reassure each side the other is doing what it has promised to do.

IAN HURD:

¶55 Thank you.

¶56 I like very much that the High-Level Panel has two proposals on Council reform. Thinking about the Council membership debate, it seems not only politically necessary but also tactically smart to have the two, so that debate gets focused on the relative merits of the two principles on permanent membership, which narrows the argument compared to having just one principle. This may contribute to a productive dynamic of debate.

¶57 It strikes me as potentially dangerous, though, to invest a lot of political capital in reform at this point. Despite the efforts of the panelists, the Council-reform parts of the report dominated the media coverage; at least in the US, it was by far the most headlined part of the report, and that was a bit of a shame.

¶58 What I would like to see on the whole issue is more discussion of why we want Council reform or what we are trying to accomplish with Council reform. You have heard already a few suggestions about what the likely empirical effects are going to be of a larger Council, and it will be useful to sit down and look through the justifications for Council reform to see whether they make sense. We should remember to ask: “Why do we want to change the membership of the Council?” and then investigate whether the proposed changes get us there or not. Can we anticipate a better or a worse Council with respect to peace and security afterwards?

LEE FEINSTEIN:

¶59 First, let me just say before the moment passes that the conclusions, the final product that the High-Level Panel recommended, which is an excellent final product in my judgment, particularly the synopsis that describes the current situation we face, I think, as well as any document is extraordinary and against all expectations. My nit-picking aside, I think that the most important thing is that it was very important that something positive came out of the train wreck in Iraq.

¶60 This is a very good start in that respect. I think no one expected, including any members of the Panel, very late in the day, as good an outcome as this. That is really attributed to Sir David and his colleagues on the Panel and the staff.

¶61 With respect to two specific questions, let me talk first about the NPT system and also something that Sir David said. What are the prospects of the survival of this two-tier system which discriminates against some and gives special rights to others?

¶62 My judgment of this is that there are two issues involved. One is the question of diplomacy and the other is the question of effectiveness.

¶63 On diplomacy, it is important to make note of this concept of universality and what is good for one is good for all. But, the truth is: US policy with respect to its biological weapons stockpiles or whether the United States ratifies or does not ratify the conference

test ban treaty is probably not going to have a big impact on Iran's decisions about its nuclear program.

¶64 It might provide some political cover to Iran to do the right thing, and in that sense it is diplomatically useful, but it is not going to affect the changes Iran feels it needs to make for its own security decisions of utmost importance.

¶65 My idea on the NPT is that they are fine and the report is excellent, but the NPT is a trip wire but it is not effective at preventing states from going down the nuclear path. It is only good at sounding the alarm once they have traveled very far down that road and even the additional protocol and all those things will only improve that on the margins. The opening proposition on the NPT is that it treats North Korea differently than Norway, which is not an acceptable way to do business in light of what we are confronting.

¶66 I think that what the EU is doing led by Britain at Iran is an example of what needs to happen. The NPT is a baseline and then you need additional measures early rather than waiting for some kind of intelligence finding and relying on it to be accurate or not. But, at the very first sign that they are moving in that direction, we need diplomatic direction. And finally, democracies need to act outside of the UN where the machinery is deadlocked.

DOUGLASS CASSEL:

¶67 Sir David, before we conclude, I would like to offer the diplomats an opportunity, if they wish, to add a concluding observation or comment.

¶68 Ambassador Laurin of Canada.

AMBASSADOR LAURIN:

¶69 Thank you. I would like to make two comments. One is that as the panel noted, there are many things not right with the UN and the Panel has sought to provide us with solutions.

¶70 But one thing that must never be forgotten is, with the exception of the Secretariat and the Secretary-General, the failure of the UN reflects the unwillingness of member states to take action to direct the Secretary-General or the institution to do something. The Secretary-General is a man who has 191 bosses, not all of whom agree; very often when they do not agree, they come to no conclusion at all, and so the institution appears paralyzed. The institution reflects the will of member states. I think we can never repeat that too often, and we must never forget that there is no institution outside of member states.

¶71 The other point that I wanted to make is with respect to democracy. There is no link between democracy and agreement on economic and social issues, none whatsoever, so I do not find it surprising that democracies cannot come together on a whole multitude of issues.

DOUGLASS CASSEL:

¶72 Thank you. Sir David, you have a concluding opportunity.

SIR DAVID HANNAY:

¶73 One of the questions that remains to be answered is about the basic contract that the UN represents. I think it is a slightly dangerous view. It is sliding off a little bit into what I call the “Gulliver fantasy,” in which you believe you can use the United Nations to tie down the United States by thousands of tiny little strands so that the US will not be able to do the things that many of you would not want it to do. I do not think that will work. I think that the United Nations reform process which is set out here will only work, just as the United Nations’ “establishment crisis” in 1945 only worked, if it enlists the national self-interest of the United States of America. It is as simple as that.

¶74 The argument is about how to enlist that along with the national interests of the other 190 member states without seeing it as kind of a trade-off. I do not think that is helpful.

¶75 There was a question about the WHO and the ILO. There is nothing I think of direct relevance. We did not look into all the agencies, but there is not a direct relevance about the ILO. The WHO most definitely has potential to be very important in the circumstances of an attack, a biological attack, which of course might be very similar to the symptoms of a natural epidemic like SARS or Avian flu, so we did identify the need for the WHO and the Security Council to get together and see how they would operate in such circumstances. The Security Council might, for example, be needed to give mandatory force to certain recommendations of the World Health Organization in some circumstances and also to strengthen the public health defenses of countries that do not have enough resources to do that on their own because, as you probably know, the really dramatic thing that could happen is that the industrialized countries would be relatively well protected, but there would be an awful lot of countries that would have absolutely no defenses at all, which could be quite dramatic.

¶76 The rapid reaction force. Why did we turn our minds against it? I am sorry to say it sounds awfully bureaucratic but the idea of a UN force just bristles with unanswered questions like: Under whose jurisdiction would it be? Who would finance it? Soldiers cost a lot of money and their equipment, too – where would they be stationed and how would they manage to intervene at the same time in the Democratic Republic of Congo, and about five other places all at once? This was the view of the Secretary-General, too. It is not a practical proposition, but it is not that there is nothing there on the matter of rapid reaction.

¶77 The EU has now identified an approach to this which they are working up: the battle group approach, under which they will hopefully have by 2007, ten or twelve battle groups ready to be put at the disposal of the United Nations for the initial phase of a peace operation before it is possible for blue-helmeted troops to deploy. There is no reason at all why the EU should be the only provider of such a rapid reaction capability. Countries like India should be perfectly capable of producing a brigade or a battle group. I think this sort of approach is more likely to work than a standing rapid reaction force.

¶78 The NPT Review Conference. The two-tiered system will survive because this is not a conference to decide whether the Non-Proliferation Treaty continues. It was extended *sine die* many years ago. Therefore, it will continue, but will it be effective? That is the big question out there. It really revolves at the moment around two countries, North Korea and Iran. I think what one is going to have to realize somewhere down this track, and the Europeans in their dialogue with Iran are realizing it and the United States

in its dialogue with the five other members of the group on North Korea is recognizing it, is that if you want to stop these countries from going down the road they have already set off down – and there is little doubt that both of them have – you have to address their security concerns. If you do not address their security concerns, there is no way you are going to stop them.

¶79 Now, that is not easy, of course, particularly when you are dealing with regimes which are a little bit odd, to put it mildly. But, the fact is that we would be very stupid if we did not recognize that they too have security concerns. North Korea's nuclear program is not actually driven by a mad design to rule the world. It is being driven by the belief that it has a lot of unfriendly people around it. It has chosen the wrong way to defend itself, in my view, but you have to address these concerns.

¶80 I think it is time that the United States considered carefully how to enter the dialogue with Iran. It is a very tricky, very sensitive issue, but it is the United States that Iran is worried about, not the three Europeans. They do not think Britain, France, and Germany are going to invade them. They do have their concerns from time to time about some things that are said by some members of the Administration and some outside the Administration, and I think that will have to be addressed.

¶81 Emerging countries that are coming to be big powers. Well, the Panel Report did talk about that in the context of the G8, which we considered to be a grouping which is probably past its sell-by date.

¶82 We do think a large number of the issues that have to be faced on the environment, on non-proliferation, on poverty, and on world trade are going to have to bring in China, India, Brazil, and Africa – these new big players. So we are, quite frankly, closet supporters of the Canadian Prime Minister's L20 idea. We actually put into the report the desirability of moving towards this.

¶83 Whether this should be a substitute for the G8 or a kind of add-on to it, that is the kind of diplomatic nicety that can be dealt with. But, I do think you need to bring China, India, Brazil, and South Africa into the discussion on how to get an environmental regime that will bring the big developing countries within its scope, and so on.

¶84 Is there a shift of power away from the member states to the Secretariat? No, not really. I think anybody who works in an international organization quickly comes to the conclusion that if they set it up in the first place to achieve certain objectives, they do actually need somebody to do the work and to do it well. It cannot be done by committees composed of 191 members so you do need an effective Secretariat.

¶85 It is what we in Europe discovered long ago in relation to the powers we gave to the Commission which, of course, are far more wide-ranging than those suggested for the UN. We have suggested no change in the powers of the Secretary-General and the Secretariat, just a change in his ability to deliver what the member states collectively want him to do. Otherwise, you are what an American friend of mine described as “you are trying to push it with a piece of damn spaghetti” – not a good idea.

¶86 Finally, will the President get us a settlement in the Middle East in four years? Well, nobody can answer that question but it sure will be more likely if he tries.

DOUGLASS CASSEL:

¶87 Thank you very much, Lord Hannay, and each of our panelists on this and on the previous two panels.