

Speech by Lord Hannay of Chiswick, Chair of the UN Association of the UK

Action for UN Renewal Erskine Childers Memorial Lecture

9 September 2008

'Who rules the world? Global challenges and the role of the UN in peacekeeping, human rights and international law'

It is a great privilege to be invited to give Action for UN Renewal's Erskine Childers Memorial Lecture. One reason for that is personal. I was present in Luxembourg when Erskine Childers, who had just taken over as Secretary-General of the World Federation of UN Associations (WFUNA), was struck down; and his life ended in such an untimely way. He was a man who did much for the cause of UN renewal and reform, both in partnership with Brian Urquhart and on his own. They brought forward, for example, the idea that the UN Secretary-General should be appointed for a single, seven-year, non-renewable term, a proposal which I still believe would be worth pursuing. He quickly grasped the fact that the end of the Cold War presented the UN with a massive opportunity, but one for which it was not well-equipped or well-organised to take advantage. So it is fitting that we should pay tribute to him in this way; and that we should discuss a range of subjects to which he would have made a much more effective contribution than I can hope to do.

The question you have asked me to address – Who rules the world? – is easier to answer in the negative than in any explicitly positive way. The world is no longer ruled, as it was during the Cold War, by the duopoly of the United States and the Soviet Union, each backed by massive alliances – NATO and the Warsaw Pact – and underpinned by the appalling military doctrine of Mutually Assured Destruction. It is not ruled either by the one super-power left standing at the end of the Cold War, the United States – which we always need to remember came to that position involuntarily, not, as many of its detractors would assert, as the result of a conscious urge for imperial domination. But, whatever the reasoning, that unipolar moment has now ended after only the briefest of periods, terminated by the shift in the global power and economic balance towards

the rising powers of Asia, and by the unilateralism, hubris and disregard for the opinions of others demonstrated by the outgoing US administration, which brought its own nemesis in Iraq. But nor is the world now governed, as many of us would wish that it were, by rules-based systems applied effectively and equitably by multilateral international organisations, with the UN at the fore amongst them. We are a good deal closer to new world disorder than we are to that happy state of order which the first President Bush believed was emerging after the end of the Cold War.

Having said that, we should not slip too easily into a state of excessive pessimism. Much has happened in the last 20 years which we can and should recognise as representing genuine progress. Democracy and the rule of law has spread more widely than ever before, most particularly in Central and Eastern Europe but also in Latin America and in parts of Africa. The UN is now required to keep the peace and to run multi-faceted peace operations worldwide to remedy the evils of state failure – more than 100,000 peacekeepers, both military and civilian, deployed; who would have dreamed of that not so long ago? The long period of economic growth, currently weakening but by no means yet ended, buttressed by free-trade and the waking worldwide of market economies, has lifted many tens, indeed hundreds, of millions of people out of abject poverty, albeit in a very geographically uneven way, with Asia in the lead, Latin America some way behind and Africa sadly lagging; and the setting of the Millennium Development Goals is boosting the flow of aid, both public sector and private, to programmes for health and education in the developing world. Perhaps most unexpectedly of all, the international community has collectively challenged the culture of impunity for gross breaches of international humanitarian law and the right of every state to treat its own citizens as it wished. The international tribunals for the former Yugoslavia and Rwanda and now the International Criminal Court are evidence of that; as was the unanimous decision in September 2005 by the UN Summit to accept the ‘responsibility to protect’ those whose governments are unwilling or unable to.

It is perhaps therefore best to say that, through the swirling clouds of disorder, despite the failures and half-successes in carrying out what the international community has effectively set itself to do,

one can descry emerging patches of genuine progress and rules-based order. My own view is that the most realistic way now to proceed, for the UN in particular, is to aim to enlarge those patches of order and to reduce the disorder, working on an incremental basis and concentrating particularly on sectors where a consensus for action can be created. We will come to some of these in a moment. But first I should admit that I do not see some overall system of global governance emerging in the foreseeable future; and I do sometimes worry that efforts to fashion such a system can impede the incremental progress which is, in my view, so essential, and which is achievable. So I am an unrepentant evolutionary, not a revolutionary.

Clearly peace operations are going to remain at the heart of the UN's daily life and activity. The phenomenon of state failure is not about to disappear from the face of the earth. The expedient of 'coalitions of the willing' is, following the bitter experience of Iraq, more likely on the wane than on the increase. But for all the massive expansion in UN peace operations and for all the undoubted successes, which, unlike the failures, are so quickly forgotten – Namibia, Mozambique, Cambodia, El Salvador and, more recently, Sierra Leone and Liberia – there are plenty of lessons which need to be learned and applied. Here are a few of them:

First, the UN is still far from achieving its potential in the prevention of state failure and in stopping disputes slipping over the edge into hostilities. Partly this results from the unwillingness of member states to turn, either individually or severally, to the UN for help when matters are showing signs of getting out of control. Why are more countries not willing to ask for the preventive deployment of peacekeepers, which was such a boon to Macedonia in the early years of its statehood, and which may now be helping to stabilise Chad? But part of the problem also is self-inflicted by the UN itself. I believe it was a fundamental error to have removed from the mandate of the newly-founded, and as yet seriously under-utilised, Peacebuilding Commission the function of preventing state failure in the first place, rather than only remedying it after it has occurred. If that error cannot be remedied by an outright reversal, perhaps it could be possible to involve the Peacebuilding Commission pragmatically in a preventive role as time passes.

Secondly, the UN is no closer to responding to the challenge of rapid and effective deployment when a peace operation is authorised. Weeks stretch into months and even years before an operation is fully manned. Meanwhile the spoilers have a free run and the golden opportunity of getting a mission off on the right foot is missed. And yet the system of stand-by arrangements, the European Union's battle groups ready to deploy at short notice, the strong and effective commitment of the countries of the Indian sub-continent to UN peacekeeping, surely offer some building blocks for a better performance on speed of deployment? What is needed is a system that assures any country or group of countries that provide forces for rapid deployment that it will not be left in the lurch with no longer-term troop deployment coming in to take over from the rapid deployers. Similar considerations apply to the provision of equipment. The current case of the lack of helicopters for the UN-African Union hybrid force in Darfur is a particularly shocking one. It really is scandalous that the Security Council should authorise an operation like that in Darfur which everyone knows cannot be carried out without a significant contingent of helicopters without having first assured itself that the necessary equipment was available at the UN's disposal. In future it might be better for the authorisation to be held up until a basic minimum of crucial resources such as those are available.

Then, thirdly, the UN needs to develop much more sophisticated systems for mounting joint peace operations with those regional organisations that have a capacity and the will to do so themselves. That sort of approach has already been used pretty effectively in Europe where the main burden of peace operations now falls and is likely to continue to fall on the European Union and NATO – although recent political tension over Kosovo has shown how easily interference in the Security Council, in this case by Russia, can cut across the requirement of joint cooperation. But the principal theatre for such joint operations is likely to remain in Africa. So, strengthening the capacity of the African Union to conduct such operations must surely be a priority for the UN. And it is high time to revisit the proposal of the High-level Panel and the UN Secretary-General in 2004 that, when the UN itself asks or authorises a regional organisation to undertake a peace operation

on its behalf, then this should be financed by UN assessed contributions. That is the only way to provide the support which poorer, developing countries have the right to demand before they undertake the costly business of a peace operation far from their own country.

Fourthly, the UN cannot and should not allow the issue of human rights abuses by its own peacekeepers and officials to rest in the complex limbo that currently exists. We must not be naïve: when more than 100,000 personnel are deployed worldwide, such abuses will occur. But what is essential is that proper preventive and deterrent action is taken to reduce such crimes to a minimum, and that they are punished, and seen to be punished promptly whenever they do occur. The problems are all too familiar. The UN itself does not exercise jurisdiction over these peacekeepers, nor could it without a major leap forward in international practice which is not likely to happen any time soon. The host country's legal framework is usually in no state to handle such complex matters. And the troop-contributing countries are all too prone to hushing such discreditable episodes up. What is needed, I would suggest, is for the Secretary-General to convoke a panel or commission of distinguished lawyers with some experience of the particular problems of applying law to the military, with a mandate to bring forward practical, quick-acting solutions to the jurisdictional and other problems that have arisen. If that way forward cannot be identified, then the UN will have little alternative but to black-ball troop-contributing countries, which do not themselves take remedial action, an appalling prospect in a world all too short of willing peacekeeping nations.

I do not want to complete these thoughts on peacekeeping without a few words on the responsibility to protect, that noble concept which so far remains little more than words on paper, and whose initial credibility is leaching away in the face of the inability or unwillingness of the international community to take effective action in places like Darfur and Zimbabwe, where the civilian populations are suffering grievously at the hands of their own government. It really is essential now to rescue the responsibility to protect from this predicament. A considerable part of the problem arises from the erroneous belief that the concept is intended simply to provide a

justification for a military humanitarian intervention against a government's will. But military action of any sort – and it is hard to see any such action being authorised by the Security Council or taking place without the support of the regional neighbours of the country in question – should only be regarded as an absolutely last resort to be contemplated when all other ways of remedying the situation have failed. Before that the international community needs to be equipped with a whole toolbox of diplomatic and economic measures which will make any further action unnecessary. It is particularly important to find a way of discussing all these sensitive issues dispassionately and with a close eye to practical possibilities rather than theoretical and utopian outcomes. For that reason the appointment by the Secretary-General of Professor Ed Luck as his Special Adviser on the Responsibility to Protect is extremely welcome. And I hope too that the wisdom of Gareth Evans of the International Crisis Group, who did so much to establish this new international norm in the first place, and whose excellent new book on the responsibility to protect comes out this week, will be taken fully into account.

The state of human rights under the UN system is not something which anyone who cares about these matters can currently regard with any degree of satisfaction. The new Human Rights Council, established with such difficulty as one of the main outcomes of Kofi Annan's reform campaign, is arousing considerable concerns in its initial, so far fairly brief, period of operation. Some problems are not of its own making. It is no fault of the Council that the Universal Declaration of 1948 remains, as it has always been, without effective enforcement provisions. Nor is that likely to be easily or rapidly remedied. But it is the Council's responsibility to ensure that it does not simply become a forum for diplomatic manoeuvre and for the continuation of political debates by another means, and that it really does address the specifics of human rights abuses wherever and whenever they occur; that, to put it simply, it does not go the way of its discredited predecessor, the Human Rights Commission. It is, in my view, far too soon to be giving up on the Council, as many of its more radical critics are already doing. But it is not too soon to be looking at the way ahead. The first priority is to make a reality of the review of every single UN member's human rights record which is now under way. Then, the advent of a new US administration, committed to

removing some of the worst mistakes of its predecessor in this field – Guantanamo and extraordinary rendition for example – is surely the moment for the United States to resume its full participation in the UN’s human rights machinery, whatever its reservations about the way things are going just now. The sooner the new US administration is elected to the Human Rights Council the better. Absence is a recipe for lack of influence. Beyond that lies the scope for reviewing the Council’s machinery after an initial period of operation. I have no doubt that will give rise to justified demands for tougher action to defend human rights, and to resistance from what can only be called ‘the usual suspects’. We must not flinch from that difficult debate nor conclude that the pursuit of better observed human rights for all is just too difficult to achieve.

So how, overall, is the UN’s role in international law faring? Better than you might expect, I would suggest, but less well than it could be doing. If one looks at the International Court of Justice one cannot but be struck by how under-utilised this vital institution actually is. When it is allowed to work, the results are almost universally positive. But far too often the referral of disputes to the Court is blocked by one or several of the parties to it being unwilling to hand the matter over to objective scrutiny. And yet around the world there are any number of such disputes – in the South China Sea, in the Gulf, in the Aegean – which would be much better dealt with by the ICJ than left to fester, perhaps one day to flare up into tension or even hostilities. Take the case of the Sheba’a farms, the one remaining territorial dispute on Israel’s northern border with Lebanon. Israel has no claim on the farms, which are in fact disputed between Syria and Lebanon. Why not refer the issue to the ICJ and thus settle at least one internationally agreed frontier in this region?

Meanwhile, as I said earlier, international criminal law is progressing by leaps and bounds. The arrest and arraignment at The Hague of Radovan Karadzic, the former leader of the Bosnian Serbs, cannot but remind us of what a major success story the International Criminal Tribunal for the former Yugoslavia has been; and how it is contributing to the consolidation of peace and security in the Balkans. That event is surely part of the answer to those who criticise the action of the Prosecutor of the International Criminal Court in proposing the indictment of the president of Sudan

over the appalling crimes committed in Darfur. Of course there is always bound to be some tension between the aims of the peace-brokers and the demands of justice. But the Court's statute provides the Security Council and the Court itself with a sufficient degree of flexibility to manage such tensions. It is worth recalling the old adage that hard cases make bad law. The worst thing the international community could possibly do would be to allow this particular hard case to damage the Court, which is still in its infancy, and to see the culture of impunity once more flourish around the world.

One other major, rules-based set of international laws, those governing trade through the World Trade Organisation, is also passing through a difficult patch, with the renewed deadlock last month in the negotiations on the Doha Round. It would have been far better if those had succeeded ahead of the US presidential election. But, if that is not to be, then it really is important not just to give up and to run the risk of a rise in global protectionism and the unravelling of this one important area of global order. We should not forget two things: it was trade protectionism which turned the financial crisis of 1929 into a world economic slump, with such disastrous political consequences; and, secondly, that the Doha Round's predecessor, the Uruguay Round, was pronounced dead any number of times, but was actually brought to a successful conclusion and helped to underpin the longest period of sustained economic growth the world has known in modern times. So we need to keep faith with the task of achieving freer and fairer trade once the dust has settled on the US election.

I have already spoken too long; but perhaps the most striking thing is that I have not even touched upon some of the most demanding challenges and tasks facing the UN – the post-Kyoto negotiations on the environment, the work of the World Health Organisation and many others in checking and reversing the spread of communicable diseases such as AIDS, malaria and TB, and the enlargement of the Security Council. This should be a constant reminder to us of how central the UN's role has now become in an increasingly interdependent world, of how crucial it is, too, that the UN should become more effective at carrying out the tasks its members pile upon it. And it

should remind us too of how necessary it is for organisations such as Action for UN Renewal to continue their work, pushing for the continuous, incremental adaptation of the UN to meet new challenges, even if some of the more radical reforms, which some would wish to see, are likely to remain beyond our grasp.