

Rule of Power or Rule of Law?

**An Assessment of U.S. Policies and Actions
Regarding Security-Related Treaties**

Executive Summary

Institute for Energy and Environmental Research
Lawyers' Committee on Nuclear Policy

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PREFACE

This book has its origins in a dialogue over the last two years among several non-governmental organizations about the trend of powerful states to erode existing international legal regimes and to resist the development of new ones, to the detriment of security, disarmament, international justice, human rights, and protection of the environment. The United States is foremost among those states, despite its widely admired and emulated commitment to the rule of law within its society.

Two of the concerned organizations, the Institute for Energy and Environmental Research and the Lawyers' Committee on Nuclear Policy, undertook this study to focus on U.S. policies toward security-related treaties. It assesses the compliance record of the United States with respect to treaties that it has ratified, the Chemical Weapons Convention (CWC), the Biological Weapons Convention (BWC), the Nuclear Nonproliferation Treaty (NPT), and the United Nations Framework Convention on Climate Change (UNFCCC); the U.S. record of refusing to enter into other treaties, the Comprehensive Test Ban Treaty (CTBT), the Treaty Banning Anti-Personnel Mines, the Statute of the International Criminal Court (ICC), and the Kyoto Protocol; and the U.S. decision to withdraw from the Anti-Ballistic Missile (ABM) Treaty. We believe that global problems should be solved through a rule-of-law approach that employs treaties as valuable instruments for safeguarding the long-term collective interests of societies and humanity, promoting peaceful resolution of conflicts, implementing disarmament, protecting human rights and securing justice, and preserving the environment. It is crucial to the very idea of the rule of law that the most powerful should comply with law even when it is difficult or costly or when a superiority of economic, military and diplomatic power makes it seem unnecessary. For that reason we have chosen first to focus on U.S. policies.

A trend of U.S. disengagement from or hostility toward international legal instruments, evidenced during the Clinton administration by the refusal to

sign the Treaty Banning Anti-Personnel Mines, the Senate's rejection of the CTBT, and the attempt to obstruct completion of the Rome Statute creating the ICC, has accelerated under the Bush administration. In the months leading up to September 11, the administration indicated its intention to abandon the ABM Treaty; withdrew its support for the Kyoto Protocol on global warming, though the United States played an integral role in its creation; opposed completion of negotiations on an international agreement to promote compliance with the BWC; and refused to seek ratification of the ICC Statute, which the United States had signed in the last days of the Clinton administration.

After September 11, when the United States appealed for international cooperation in the fight against terrorism, many hoped that law-governed multilateralism would return to favor. Instead, the United States continued its policy of relying first of all on its national military and intelligence capabilities rather than on international agreements. The Bush administration withdrew from the ABM Treaty; in an unprecedented step, formally notified the United Nations of its intention not to ratify the ICC Statute despite the U.S. signature; sought to terminate the multilateral process established to strengthen the BWC; and suggested inadequate unilateral measures to replace the proposed binding obligations of the Kyoto Protocol.

The United States not only refuses to participate in newly created international legal mechanisms, it fails to live up to obligations undertaken in treaties that it has ratified. The NPT obligates the United States to "pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament," but the United States has not integrated this obligation into its national nuclear policy. Instead, the January 2002 Nuclear Posture Review plans for the maintenance of large and modernized nuclear forces for the indefinite future. As a party to the UNFCCC, the United States is obligated to take "precautionary measures to anticipate, prevent or minimize the causes of climate change." However, the Bush administration's call for slow decreases in greenhouse gas "intensity" rather than the total level of emissions is essentially a continuation of past modest increases in energy efficiency that have not prevented an ongoing increase in greenhouse gas emissions. As a party to the CWC, the United States is obligated to meet reporting and inspection requirements, but Congress passed legislation that restricts U.S. compliance. The BWC prohibits the United States from manufacturing bio-weapons, but the United States in the late 1990s built a test bomb and

weaponized anthrax and carried out these activities in secret, making it impossible for other states to assess U.S. compliance with the prohibition.

Treaties by their very nature involve some sacrifice of sovereignty. In exchange, treaty regimes contribute to national and global security in important ways, including by:

- articulating global norms;
- promoting and recognizing compliance with norms;
- building monitoring and enforcement mechanisms;
- increasing the likelihood of detecting violations and effectively addressing them;
- providing a benchmark for measurement of progress;
- establishing a foundation of confidence, trust, experience, and expertise for further progress;
- providing criteria to guide states' activities and legislation, and focal points for discussion of policy issues.

Over the long term, treaty regimes are a far more reliable basis for achieving global policy objectives and compliance with norms than “do as we say, not as we do” directives from an overwhelmingly powerful state. The concept of the rule of law was integral to the founding of the United States, which has been one of its staunchest advocates. The rule of law in international affairs is still emerging, evolving quickly as global forces drive countries closer together. Its development is largely a response to the demands of states and individuals living within a global society with a deeply integrated world economy. In this global society, the repercussions of the actions of states, non-state actors and individuals are not confined within borders, whether we look to greenhouse gas accumulations, nuclear testing, the danger of accidental nuclear war, or the vast massacres of civilians that have taken place over the course of the last hundred years and still continue. The people of the United States are part of this global society, and failures at the global level will affect their security and well-being adversely, along with that of people elsewhere. The importance and weight of the United States makes a U.S. withdrawal from the global legal process, except when it gets its own way, a dangerous course for security as well as the environment.

In this study, we define “security” broadly, to include legal instruments relating to international justice, protection of the global environment, notably with respect to the buildup of greenhouse gases, and non- proliferation and disarmament of weapons of mass destruction. Developments in all these areas can affect the likelihood of conflict and degrees of its destructiveness. First we review the process of how treaties are entered into by the United States, and the historical tension in the U.S. government between those favoring and those opposing international treaty regimes.

We then examine recent U.S. policies and actions with respect to the treaties mentioned above. We conclude with reflections about the value of international law in promoting national and global security. An annex is attached which shows the participation of states in major security and human rights treaties. We also include an Executive Summary of our findings.

This book is an updated version of a report released by the Institute for Energy and Environmental Research and the Lawyers' Committee on Nuclear Policy in April 2002.

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EXECUTIVE SUMMARY

U.S. AMBIVALENCE TOWARD INTERNATIONAL LEGAL REGIMES

While the United States currently resists a range of global security treaties, it is also the principal architect of the post-World War II international legal system. We begin by tracing the roots of the ambivalent U.S. approach to international law and institutions, setting the stage for examination of specific treaty regimes.

International law can take the form of written agreements between or among states, treaties, or generally accepted norms based on states' practices, known as customary law. This study, while recognizing the importance of customary law as a foundation for and outgrowth of treaties, focuses primarily on treaties.

Methods by which states accept treaties as law vary according to states' legal systems. In the United States, for a treaty to become law, two-thirds of the Senate must give its "advice and consent" to ratification. Ratification occurs when the President gives formal notice of U.S. acceptance of a treaty to other signatories. Pursuant to Article VI of the U.S. Constitution, treaties are part of the "supreme law of the land," along with federal statutes and the Constitution itself. Regardless of whether a treaty is enforced within the United States, courts recognize that it is a legal obligation of the United States on the international plane.

The United States can be credited as one of the founders of the modern system of international law. Its own founding as a country was based on the idea that a system of constitutional law is superior to rule by a king. Nevertheless, the history of the past century reveals that the U.S. desire to contribute to the creation of a global framework of law that builds national and global security has been counteracted by fears that international obligations will injure U.S. interests and sovereignty.

An early example is the League of Nations, a body of global governance whose principal architect and advocate was U.S. President Woodrow Wilson. There was formidable opposition to the League, due to its

perceived encroachment on U.S. sovereignty, and the Senate declined to approve ratification of the treaty establishing the League. Twenty-five years later, the United States played a leading role in the creation of the United Nations, but only agreed to participate on condition of a veto in the UN's highest political body, the Security Council. Despite the U.S. role as host to the UN, and the general support that the U.S. public has expressed for the UN, a vocal faction of the U.S. government expresses wariness, and oftentimes hostility, toward the UN. In the 1980s and 1990s, the United States withheld dues from the UN, citing a need to reduce bureaucracy and ensure preservation of U.S. sovereignty. After the September 2001 terrorist attacks, Congress approved payment of a large sum of back dues on the basis that international cooperation through the UN is needed to fight terrorism.

U.S. policy toward international criminal justice has been similarly conflicted. Following World War II, the United States took the central role in convening the Nuremberg trials of major Nazi war criminals. In the 1990s, the United States supported the Security Council's establishment of *ad hoc* tribunals to try persons accused of war crimes, crimes against humanity, and genocide in the former Yugoslavia and Rwanda. However, the United States now opposes the International Criminal Court, largely due to its objection to the fact that U.S. nationals, along with those of other states, will be subject to the Court's jurisdiction.

With respect to international human rights law, the United States was a key participant in the elaboration of international human rights instruments following World War II. Acceptance within the U.S. political system has been slow to follow. The United States did not ratify the 1948 Genocide Convention until 1988. The Senate imposed significant reservations and conditions when it approved ratification of the Covenant on Civil and Political Rights and the Convention Against Torture. The United States has not yet ratified the Convention on Discrimination against Women, the Covenant on Economic, Social and Cultural Rights, and the Convention on the Rights of the Child (Somalia is the only other state not to have ratified the last treaty).

Another international legal body to have wavering support from the United States is the International Court of Justice, the UN judicial branch that adjudicates disputes among countries. In 1946, when the United States accepted the general jurisdiction of the International Court of Justice, it sought to exempt matters "within [U.S.] domestic jurisdiction as determined

by the United States.” In the 1980s, after the Court ruled that it had jurisdiction to decide a case brought by Nicaragua charging that the United States violated international law by supporting the contras in their effort to overthrow the Nicaragua government, the United States withdrew from the case and also withdrew its acceptance of the Court’s general jurisdiction.

Since the fall 2001 terrorist attacks, the United States has invoked various international laws to help prosecute its war on terrorism. Under U.S. leadership, the UN Security Council adopted a resolution requiring all states to suppress financing of terrorist operations and to deny haven to terrorists. The Bush administration submitted two anti-terrorism treaties, on bombings and finance, to the Senate, the Senate approved ratification, and the United States became a party to the treaties in June 2002. The United States is now a party to all 12 global treaties on terrorism, which in large measure require states either to prosecute or extradite persons accused of various specific acts of violence. On the other hand, the United States declined *a priori* to treat captured members of Taliban forces as prisoners of war under the Third Geneva Convention, though it requires that, in case of doubt, a competent tribunal determine detainees’ status. The United States also essentially sidelined the Security Council with respect to military operations in Afghanistan.

The heated debate over U.S. involvement in the international legal system, now nearly a century old, continues with an influential segment of opinion now contending strongly that the United States must rely on its own capabilities rather than treaties to protect its interests and sovereignty. As this study documents, resistance to law-governed multilateralism is manifested both by disregard of obligations imposed by treaties to which the United States is a party, and by a pattern of shaping treaties during negotiations only later to reject them.

PRESENT U.S. POLICIES REGARDING SECURITY-RELATED TREATIES

Nuclear Nonproliferation Treaty

The 1970 Nuclear Nonproliferation Treaty (NPT) bars almost all states in the world from acquiring nuclear weapons, and commits states parties that do possess nuclear weapons (Britain, China, France, Russia, and the United States) to negotiate their elimination. Only four states are outside the regime,

Cuba and three nuclear-armed countries, India, Pakistan, and Israel. In return for agreeing not to acquire nuclear weapons and to accept safeguards to ensure that nuclear materials are not diverted to weapons from non-military programs, non-nuclear weapon states insisted that the NPT include a promise of assistance with peaceful nuclear energy, set forth in Article IV, and a promise of good-faith negotiation of cessation of the nuclear arms race “at an early date” and of nuclear disarmament, set forth in Article VI. Also part of the bargain are declarations by the NPT nuclear weapon states that they will not use nuclear weapons against nonnuclear weapon states parties. In 1995, in connection with indefinite extension of the treaty, a commitment was made to complete negotiations on the Comprehensive Test Ban Treaty (CTBT) by 1996. In 1996, the International Court of Justice unanimously held that Article VI obligates states to “bring to a conclusion negotiations leading to nuclear disarmament in all its aspects.” In the 2000 NPT Review Conference, all states agreed upon a menu of 13 disarmament steps, including an “unequivocal undertaking” to “accomplish the total elimination” of nuclear arsenals pursuant to Article VI, ratification of the CTBT, U.S.-Russian reductions of strategic arms, application of the principle of irreversibility to disarmament measures, further reduction of the operational status of nuclear weapons, and a diminishing role for nuclear weapons in security policies.

Since 1970, the record of compliance with the non-acquisition obligation and safeguards agreements is reasonably good, with the exception of Iraq and North Korea. In contrast, the nuclear weapon states, including the United States, are now clearly out of compliance with the Article VI disarmament obligation as specified in 1995, 1996, and 2000.

The U.S. Senate rejected the CTBT in 1999. As set forth in the U.S. 2002 Nuclear Posture Review (NPR), reductions of deployed strategic arms will be *reversible*, not irreversible, because they will be accompanied by the maintenance of a large “responsive force” of warheads capable of being redeployed in days, weeks, or months. The May 2002 U.S.-Russian agreement limiting “strategic nuclear warheads” on each side to no more than 2200 by the year 2012 does not provide for destruction or dismantlement of reduced delivery systems and warheads. It is therefore consistent with the U.S. plan for a “responsive force” and contrary to the NPT principle of irreversible disarmament. There are no announced plans to employ dealerting measures to reduce the operational status of the large deployed strategic forces that will remain after reductions. The NPR expands options for use of nuclear weapons against non-nuclear weapon states, including preemptive

attacks against biological or chemical weapon capabilities and in response to “surprising military developments,” and to this end, provides for development of warheads including earth penetrators. This widening of use options is contrary to the pledge of a diminishing role for nuclear weapons in security policies, the declaration of non-use of nuclear weapons against non-nuclear weapon states parties, and the obligation to negotiate cessation of the arms race at an early date. The NPR also contains plans for the maintenance and modernization of nuclear warheads and missiles and bombers for the next half-century. Above all, the lack of compliance with Article VI lies in the manifest failure to make disarmament the driving force in national planning and policy with respect to nuclear weapons.

Recommendations

In order to preserve and strengthen the NPT, the United States must demonstrate good-faith compliance with its Article VI obligations. The United States and Russia should drastically reduce strategic nuclear arms in a verifiable way codified by treaty, account for and destroy or dismantle reduced delivery systems and warheads, and engage other nuclear-armed states in a process of reductions leading to verified elimination of nuclear forces. The United States, Russia, and other nuclear-armed states should verifiably dealert their nuclear forces by such means as separating warheads from delivery systems, to achieve a condition of “global zero alert.” The United States should reject the expansion of nuclear weapons use options set forth in the 2002 Nuclear Posture Review, and together with other nuclear-armed states adopt a policy of no first use of nuclear weapons. The United States and other nuclear-armed states should make achievement of total elimination of nuclear arsenals the centerpiece of their national planning and policy with respect to nuclear weapons.

Comprehensive Test Ban Treaty

After four decades of discussions and partial test ban agreements, negotiations on the Comprehensive Test Ban Treaty were completed in 1996. The achievement of a CTBT in 1996 was an explicit commitment made by the nuclear weapons states to all parties to the NPT, in connection with the indefinite extension of the NPT in 1995. The CTBT bans all nuclear explosions, for any purpose, warlike or peaceful. Though it contains no explicit definition of a nuclear explosion, the public negotiating history makes

it clear that any nuclear explosive yield must be much less than four pounds of TNT equivalent and that the achievement of a nuclear criticality in explosive experiments involving fissile materials is prohibited.

In order to enter into force, the CTBT must be signed and ratified by 44 listed countries that have some form of nuclear technological capability, including commercial or research nuclear reactors. The CTBT still requires the ratification of 13 out of 44 nuclear capable states, including the United States, for entry into force. Of these, India, Pakistan, and North Korea have not signed the treaty. Of the five NPT nuclear weapon states, Russia, Britain, and France have ratified the treaty. The United States and China have signed but not ratified it.

India was included on the list of 44 countries, though it had explicitly rejected the CTBT during the negotiations. India claimed that while the treaty was originally intended to contribute to both nonproliferation and disarmament, it became a discriminatory instrument designed to promote nonproliferation but enable existing nuclear weapons states to maintain their nuclear arsenals. A similar problem in the 1960s led to India's refusal to sign the NPT. During the negotiations, India pointed to the stockpile stewardship program of the United States and similar, if less extensive, programs in other nuclear weapons states, that have the explicit purpose of maintaining nuclear design capability and existing nuclear arsenals over the long run. India tested nuclear weapons on May 11 and 13, 1998, and Pakistan followed with its own tests less than three weeks later.

Despite appeals from allies and large sections of U.S. opinion, the U.S. Senate voted in October 1999 to reject ratification of the CTBT. The Bush administration opposes the CTBT, and does not plan to ask the Senate to reconsider ratification. However, the United States has not made a formal notification of intent not to ratify the treaty and is maintaining the test moratorium, as are the other nuclear weapons states.

The merits of the CTBT as an instrument of nonproliferation and to a modest extent as an instrument of disarmament are reasonably clear. While the design of rudimentary nuclear weapons can be done without testing, it is essentially impossible to build an arsenal of the type that might be delivered accurately by intercontinental ballistic missiles without testing. Hence, in this regard, countries that have tested extensively, notably the five nuclear weapons states

that are parties to the NPT, have an advantage in having previously tested nuclear weapons designs that can be put on intercontinental missiles.

The issues at stake in the arguments against the CTBT are not technical ones, but an assertion by the United States of the right to continue over the long haul not only to possess but to further develop an already extensive nuclear weapons capability despite its commitments for disarmament under the NPT. This approach was most recently codified in the Bush administration's Nuclear Posture Review (see above).

In our analysis, the United States and France are preparing to violate Article I, para. 1 of the CTBT because they are building large laser fusion facilities (the National Ignition Facility, NIF, and Laser Mégajoule, LMJ, respectively) with the intent of carrying out laboratory thermonuclear explosions of up to ten pounds of TNT equivalent. They also appear to be currently violating Article I, para. 2 of the CTBT because by building these facilities they are engaged in the process of causing nuclear explosions. Britain appears to be violating the CTBT because it is providing funds to the NIF program. Japan and Germany also appear to be in violation because they are the home countries of corporations whose subsidiaries are providing glass for the NIF and LMJ lasers.

Nothing in the public negotiating record or in the language of the CTBT provides for exceptions allowing laboratory thermonuclear explosions. Yet the United States has claimed, based on the NPT record, that they are permitted. That explanation does not withstand close scrutiny. There appears to be a secret negotiating record of the CTBT. It is possible that not all countries that have signed the CTBT are aware of the entire record.

Recommendations

A ban on testing is integrally related to the obligations of the NPT and therefore adds to the strength of that regime. It also directly contributes to prevention of further development and spread of nuclear weapons. The United State's interest should be in maintaining that ban by submitting itself to the same standards it seeks for other states. In that regard, the United States, and all countries should maintain the nuclear test moratorium until such time as the CTBT enters into force. The United States and all countries should *unconditionally* ratify the CTBT. This would be in the spirit the achievement of both nonproliferation and disarmament that animated the decades-long,

worldwide demand for a comprehensive nuclear test ban. The United States, France, Britain, Japan and Germany should stop all preparations for carrying out laboratory thermonuclear explosions. The matter of laboratory thermonuclear explosions should be taken up explicitly by the parties to the CTBT, so as to reaffirm the complete ban on all nuclear explosions. Finally, the entire negotiating record of the CTBT should be published. In particular, the record of any confidential discussions and any confidential agreements (if they exist) between or among sub-groups of countries regarding inertial confinement fusion explosions should be made public.

Anti-Ballistic Missile Treaty

The Anti-Ballistic Missile (ABM) Treaty was created by the United States and the Soviet Union in 1972 in the context of their growing armories of missiles that had several warheads, each of which could be independently targeted. These weapons raised the theoretical possibility of a surprise first strike by one of the Cold War antagonists that might wipe out most of the strategic nuclear forces of the other side. An extensive defense system could then prevent the remaining nuclear warheads of the adversary's retaliatory strike from harming its territory.

The ABM treaty was supposed to maintain the credibility of retaliatory deterrence based on the threat of a successful second strike, also known as the policy of Mutually Assured Destruction (MAD). The ABM Treaty was unusual in also putting limits on future technological development in the interest of preserving the "strategic balance" between the United States and the Soviet Union.

During the 1990s, sentiment in the United States grew that the policy of mutually assured destruction should be replaced by a more flexible nuclear doctrine that included missile defenses at a variety of levels, including defenses against strategic missiles far beyond the very limited defenses permitted by the ABM Treaty.

For some years, the United States pursued a policy of attempting to negotiate changes in the ABM Treaty while researching missile defense technology. The Bush administration was less favorably inclined toward maintaining the treaty at all. In December 2001 the United States notified Russia of its intent to withdraw from the treaty in six months pursuant to a treaty provision

permitting withdrawal based upon extraordinary events jeopardizing the withdrawing state's supreme interests. The unilateral U.S. decision to withdraw came despite the fact that many planned missile defense tests could have been implemented within the constraints of the treaty.

The U.S. withdrawal from the ABM Treaty is the first formal unilateral withdrawal of a major power from a nuclear arms control treaty after it has been put into effect. The U.S. action is especially troubling in the context of its decision to make a list of countries that may be targeted with nuclear weapons in its Nuclear Posture Review. One of the rationales in the targeting strategy is the possession of weapons of mass destruction by countries contrary to their treaty commitments. But what if North Korea, following the U.S. example, gave three months notice of withdrawal from the NPT and then proceeded to build a nuclear arsenal because it felt its national survival was threatened by U.S. policy?

The problem of preventing the deliberate or accidental use of weapons of mass destruction is a complex one. The risks of the use of weapons of mass destruction by terrorist groups or by states that do not now possess them are real. But so are the risks that nuclear weapons states would use them. The risks of nuclear war by accident or miscalculation because the United States and Russia maintain large numbers of nuclear weapons on hair-trigger alert are also significant. Moreover, the nuclear posture of the United States includes possible first use of nuclear weapons in a variety of circumstances and does not rule out a first strike. U.S. development and deployment of missile defenses will impede further U.S.-Russian arms reductions and may stimulate an arms race in Asia. Russia has already announced a withdrawal from its commitments under the START II arms reduction treaty (not yet in force) in the wake of the U.S. withdrawal from the ABM Treaty. In this overall context, the U.S. withdrawal from the treaty also jeopardizes the most important treaty preventing the spread of nuclear weapons and nuclear materials – the NPT.

In a different context that included complete, verified denuclearization of nuclear weapons and a commitment to complete disarmament, including missile control, it is possible to imagine missile defenses, globally applied, as theoretically positive, though it is not clear whether that would be a worthwhile priority even then. At the present time, justifying a unilateral withdrawal from the ABM Treaty as an act of defense stretches credibility beyond the limit, especially when taken in combination with the U.S. record

on other treaties detailed in this report, as well as the technical reality that a functioning missile defense system would enhance the ability of the United States to carry out a first strike with reduced damage to itself.

Recommendations

The United States should commit itself to the goal of strategic stability and to reducing the threat of a first strike by nuclear states, instead of increasing it as the present policy tends to do. Missile defenses should be ruled out unless there is universal and verified dealtering of nuclear weapons. In this context, a global missile defense system could be created to prevent nuclear attacks by non-state parties or nuclear weapons states. A global system should protect all populations, not just the populations of one country or an exclusive alliance. Protection of all populations can only succeed in a context of demonstrated commitment to universal nuclear disarmament. An aggressive first use and first strike policy cannot be a foundation for missile defense. To achieve global nuclear cooperation and therefore to prevent non-state groups and non-nuclear states from acquiring or using nuclear weapons, the United States must take the essential first step of pursuing verified dealtering of all nuclear weapons bilaterally with Russia as well as multilaterally with other nuclear weapons states, thus demonstrating its commitment to complete nuclear disarmament.

Chemical Weapons Convention

The Chemical Weapons Convention bans the development, possession, transfer and use of chemical weapons and creates a regime to monitor the destruction of chemical weapons and to verify that chemicals being used for non-prohibited purposes are not diverted for use in weapons.

The CWC contains three basic obligations:

- (1) Prohibition of Weapons. States parties agree to never develop, acquire or use chemical weapons or transfer them to anyone;
- (2) Destruction of Weapons. State parties agree to destroy all of their existing chemical weapons production facilities and stockpiles;
- (3) Declarations and Inspections. Each state party must declare any chemical weapons facilities or stockpiles. States parties are not restricted in the use of chemicals and facilities for purposes other than

the manufacture/use of chemical weapons, but must allow routine inspections of declared “dual-use” chemicals and production facilities that could be used in a manner prohibited by the convention. The annexes of the Convention set forth the list of such chemicals and facilities.

In addition to the routine inspections, the treaty also gives states parties the right to request a challenge inspection of any facility, declared or undeclared, on the territory of another state party that it suspects of possible non-compliance.

The United States played a significant role in negotiating the CWC, advocating a treaty broad in scope and with a thorough verification and inspection regime. The CWC was supported by three presidential administrations, Democratic and Republican. The treaty enjoyed public support, and endorsement from the intelligence community, the Department of Defense and the chemical industry. Despite the widespread support, several influential Senators, including Jesse Helms, then Chair of the Senate Foreign Relations Committee, threatened to prevent ratification of the CWC unless U.S. commercial and national security interests were better safeguarded. After lengthy negotiations, the treaty was ratified, but Congress imposed limitations on how the United States implements its terms.

Several of the restrictions imposed by Congress amount to a refusal to comply with terms of the treaty relating to inspections. Under CWC Article VI, states parties are required to subject specified toxic chemicals and facilities to verification measures (inspections and declarations) as provided by the Verification Annex. Pursuant to the implementing legislation, however, the President has the right to refuse inspection of any U.S. facility upon determining that the inspection may “pose a threat to the national security interests.” Another restriction narrows the number of facilities that are subject to the inspection and declaration provisions. Also, the United States refuses to allow samples to be “transferred for analysis to any laboratory outside the territory of the United States,” though the Verification Annex permits, if necessary, “transfer [of] samples for analysis off-site at laboratories.”

These limitations may prevent accurate inspection results. Also, it is in the interest of the United States to foster thorough inspections of other states parties, but they may seek to apply the U.S. limitations to their own inspections. For example, in its implementing legislation, India prohibits

samples from being taken out of the country, and Russia proposed similar legislation.

In April 2002, the United States led a mid-term vote to remove the Director-General of the Organization for the Prohibition of Chemical Weapons, the treaty-created body charged with overseeing the implementation of the treaty. The United States explained that the decision was based on the Director-General's financial mismanagement, and threatened to withhold paying its dues if the official was not removed. Critics charged that the dissatisfaction was due to the Director-General's independence from U.S. influence. The OPCW is expected to undergo further U.S.-led changes as a result of the Director-General's removal.

The CWC has not yet been used to its fullest potential. No state party has used the challenge inspection provision of the CWC to address alleged treaty violations by other states parties. The United States has alleged that states parties, including Iran, have violated the prohibitions of the CWC, but has not addressed the matter using the CWC. Use of the challenge inspection mechanism would bolster the treaty as a tool for gathering information and deterring the spread of chemical weapons. On the other hand, the longer the challenge inspection goes unused, the less credible the treaty will appear as a protection for the international community.

Recommendations

In order to maintain the CWC as a tool for preventing the development and spread of chemical weapons, the United States should commit to full inspections of the subject chemicals and facilities according to the terms of the Verification Annex. The United States should also avail itself of the challenge inspections to investigate allegations of violations by other states parties.

Biological and Toxin Weapons Convention and Draft Protocol

The BWC was signed in 1972 and came into force on March 26, 1975. Article I states that:

Each State Party to this Convention undertakes never in any circumstances to develop, produce, stockpile or otherwise acquire or retain:

- (1) Microbial or other biological agents, or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes;
- (2) Weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict.

Assessing compliance with the prohibitions is complicated by the fact that the BWC permits possession of biological weapon materials in small amounts needed for defensive purposes, such as development of vaccines. However, the BWC contains no mechanisms for verifying compliance. The need for such measures has long been evident.

Over a period of seven years, a committee open to all BWC states parties (the Ad Hoc Group) has worked toward the creation of a legally binding agreement to strengthen the BWC, known as the “BWC Protocol.” The parties agreed that the Protocol would include declarations of national bio-defense programs, facilities with high biological containment, plant pathogen facilities and facilities working with certain toxic agents; on-site visits to encourage the accuracy of declarations; and rapid investigations into allegations of noncompliance. Although difficult issues remained, the Ad Hoc Group had hoped to present a draft of the Protocol to the conference of BWC States Parties in November 2001.

The United States had initially endorsed the general approach contained in the Protocol, but neither the Clinton nor Bush administrations took a leading role in negotiations. Many national security officials opposed a verification protocol because it required information relating to biodefense work. In addition, biotechnology firms raised concerns about the protection of their proprietary information. In May 2001, the Bush administration performed a policy review regarding the BWC Protocol, and in July 2001 announced that it could no longer endorse the Protocol, even if it were revised. The justification for rejecting the Protocol was that it did not adequately protect bio-defense and industrial information, and also that the verification measures would not be effective in detecting cheating. As an alternative to the Protocol, the United States proposed voluntary undertakings that would only minimally improve the existing biological weapons control regime.

The stated reasons for the U.S. opposition to the Protocol are suspect at best and do not stand up to serious scrutiny. They are contrary to the very positions taken by the U.S. government over a considerable period while the

Protocol was being negotiated. Negotiators from the United States and other countries fully recognized that the treaty could not detect all instances of cheating; the very nature of biological weapons makes their detection exceptionally difficult. No treaty is foolproof, but through its provisions for declarations and clarifications, the Protocol would promote transparency of a state's biological activity and would help to deter proliferation. Moreover, during negotiations, the United States advocated weaker verification procedures in the interest of protecting industrial and biodefense information. If the United States were genuinely interested in creating a technically feasible Protocol that would also safeguard its information, it could have conducted extensive trials of the possible monitoring regime. Indeed, the U.S. was called upon to do so in a 1999 U.S. law.

The United States not only rejected the specific text of the Protocol under consideration, but also, in November 2001, at the end of the BWC Review Conference, called for the termination of the Ad Hoc Group, meaning complete abandonment of the process that had been created seven years ago to strengthen the BWC through a legally binding instrument. The fate of the Ad Hoc Group, and thus the ability of the states parties to create a legally binding verification regime, is now up in the air.

The United States does not endorse a mandatory regime of openness with regard to biological agents and equipment. The policy might be explained by the U.S. commitment to biodefense work, much of which has been carried out in secret, that the U.S. fears may be exposed by a verification regime. As part of its biodefense program, the United States has already constructed a model bio-bomb, weaponized anthrax, built a model agent-producing laboratory and begun developing a genetically enhanced superstrain of anthrax. All of this was done in secret and without notification to other BWC states parties. At least the first two of these activities may be seen as violating the BWC, because, although the stated purpose for all the activities is defensive, the BWC does not permit the production of weapons. The U.S. program may prove to be a dangerous model, as states parties may undertake similar covert biodefense programs, citing the U.S. example. Any party could then easily divert such programs for offensive purposes.

Recommendations

The United States should strengthen the laws against biological weapons in two ways. It should commit to the earliest possible completion of a protocol

establishing a verification regime including declarations, on-site visits and challenge inspections. To that end, the United States should conduct trials to ensure that any monitoring regime in place will be capable of producing accurate results. Also, the United States should ensure that it is adhering to its existing commitments by immediately terminating all biodefense programs to construct biological weapons.

Mine Ban Treaty

In 1996, a group of like-minded countries working with non-governmental and humanitarian relief organizations commenced a process for the creation of a treaty banning anti-personnel landmines. This process resulted in the creation of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and On Their Destruction (the Mine Ban Treaty).

The Mine Ban Treaty bans all anti-personnel landmines without exception. It entered into force in March 1999. States parties are required to make implementation reports to the UN Secretary-General within 180 days, destroy stockpiled mines within four years, and destroy mines in the ground in territory within their jurisdiction or control within 10 years. The Mine Ban Treaty also requires states parties to take appropriate domestic implementation measures, including imposition of penal sanctions for violation of its provisions.

Although President Clinton was the first world leader to call for the “eventual elimination” of landmines, during negotiations on the Mine Ban Treaty, the Clinton administration demanded that certain types of antipersonnel mines be permitted, that U.S. mines in South Korea be exempted from the ban, and that an optional nine-year deferral period for compliance be established. The U.S. demands were rejected, and the United States declined to sign the treaty.

The U.S. landmines policy was refined in 1998 when President Clinton committed the United States to cease using antipersonnel mines, except those contained in “mixed systems” with antitank mines, everywhere in the world except in Korea by the year 2003. By the year 2006, if alternatives have been identified and fielded, the United States will cease use of all antipersonnel mines, including those in mixed systems, and join the Mine Ban Treaty.

Current U.S. policy hinders efforts to universalize the core prohibitions of the Mine Ban Treaty on the production, use, stockpiling, and transfer of antipersonnel mines. Many military experts have argued that antipersonnel mines have little to no utility in the war fighting principles currently being developed and adopted by the U.S. military for the 21st century. The unique exceptions that United States claims as critical are also reflected in the justifications used by other non-parties. Moreover, the multi-year \$820 million program to identify and field alternatives to antipersonnel mines may not meet the 2006 objective and may result in munitions that would, in any case, be banned under the Mine Ban Treaty. Significantly, compliance with the Mine Ban Treaty is not a criterion for any of the alternatives programs. In 1999, as a condition of ratification of a separate treaty which regulates but does not prohibit landmines, Protocol II to the Convention on Conventional Weapons, President Clinton agreed that the search for alternatives to antipersonnel landmines would not be limited by whether they complied with the Mine Ban Treaty. The contradiction between the policy objectives established under President Clinton and the subsequent interpretation of his instructions jeopardizes the overall success of the alternatives program and threatens the 2006 target date.

The fate of the alternatives program and the 2006 target date is now in question because the Bush administration is currently conducting a review of U.S. mine policy. As the U.S. policy currently stands, the United States keeps company with Russia, China, India, Pakistan, Iran, Iraq, Libya, North Korea, Burma, Syria, and Cuba by refusing to join the Mine Ban Treaty. The United States joins Turkey as the only members of NATO not to have signed the treaty, though Turkey has pledged to accede to the accord. The United States is one of just fourteen countries that have not forsworn production of mines. It possesses the third largest stockpile of antipersonnel mines in the world, totaling more than 11 million, including 1.2 million of the long-lasting “dumb” mines. The United States stockpiles at least 1.7 million antipersonnel mines in twelve foreign countries, five of which are party to the Mine Ban Treaty. The United States exported over 5.6 million antipersonnel mines to thirty eight countries between 1969 and 1992. The United States manufactured antipersonnel mines that have been found in twenty-eight mine-affected countries or regions.

Recommendations

President Bush should submit the Mine Ban Treaty to the Senate for its advice and consent to accession (essentially one-step signing and ratification, done after the period for signature has ended), and should through executive actions begin immediate implementation of the treaty's provisions. Short of joining the treaty, there are other important steps that the Bush administration could take, including setting a definitive deadline for joining the Mine Ban Treaty, not a conditional objective; declaring a ban or an indefinite moratorium on the production of antipersonnel mines; immediately committing the United States to a policy of no use of antipersonnel mines in joint operations (NATO and otherwise) with states that have signed the Mine Ban Treaty; committing the United States to a policy of no transiting of antipersonnel mines across the territory, air space, or waters of Mine Ban Treaty signatory states; immediately withdrawing all stockpiles of antipersonnel mines from countries that have signed the Mine Ban Treaty; and taking steps necessary to ensure that any systems resulting from the Pentagon's landmine alternative programs are compliant with the Mine Ban Treaty.

UN Framework Convention on Climate Control and the Kyoto Protocol

The 1992 United Nations Framework Convention on Climate Change (UNFCCC) and the 1997 Kyoto Protocol are linked treaties relating to climate change. The former is the fundamental treaty on climate change, since it sets forth a framework of basic obligations. The Kyoto Protocol was signed pursuant to those obligations. A chapter on the Kyoto Protocol is included in this report on security-related treaties because climate change could have vast security implications. For instance, it could cause millions or even tens of millions of people to become refugees because of flooding or changing food production patterns.

The United States ratified the UNFCCC in 1992; it entered into force in 1994. The UNFCCC recognizes that "the largest share of historical and current global emissions of greenhouse gases has originated in developed countries, that per capita emissions in developing countries are still relatively low." The treaty therefore puts the burden of taking "the lead" in reducing those emissions on the developed countries. Such action was to be taken despite uncertainties relating to climate change. Over the past decade, evidence has accumulated that the global climate is changing due to human activities. The possibility of very rapid change and consequences far more catastrophic than

were commonly discussed only a decade ago now seem within the range of possibility.

The 1997 Kyoto Protocol was designed to be the first step to give specificity to commitment made in the UNFCCC. It is generally recognized that the emissions reductions the Kyoto Protocol mandates are moderate, that further reductions to protect the climate will be required, and that developing countries will need to be brought into the framework in subsequent steps. Under the Kyoto Protocol, the developed countries agreed to reduce their greenhouse gas emissions relative to 1990 by at least five percent by the period 2008 to 2012. The Clinton administration signed the treaty but did not seek ratification since it was likely to be defeated. The Bush administration has rejected the Kyoto Protocol altogether. The other developed country parties completed their negotiations on specific targets in 2001 and have announced their determination to achieve them.

Regardless of whether it accepts the Kyoto Protocol, the United States, as a party to the UNFCCC and as the producer of one quarter of the world's greenhouse gases, is obligated to take "precautionary measures to anticipate, prevent or minimize the causes of climate change." The Bush administration, in a recent UNFCCC report, conceded the impact of climate change, yet its policies focus more on the "challenge of adaptation" than on mitigation. The administration endorses largely voluntary measures, and the climate change plan in place is aimed only at reducing greenhouse gas "intensity" of the U.S. economy. This plan would reduce emissions per unit of economic output, but the target for the reduction in intensity is so low that total emissions would still continue to grow. Indeed, the announced target is in line with historical trends in decreased emissions per unit economic output and increased total emissions. In other words, the plan maintains the status quo of modestly increasing energy efficiency and rising greenhouse gas emissions.

The U.S. rejection of the Kyoto Protocol coupled with its publication of a plan that will actually result in increased greenhouse gas emissions over the next decade puts the United States in violation of its commitments under the UNFCCC.

Recommendations

The United States should create policies and targets for actually reducing total greenhouse gas emissions. This will require reductions in greenhouse gas

intensity at a rate faster than the anticipated rate of economic growth. The United States should announce a process by which it will re-engage with the world community to find ways to reduce greenhouse gas emissions globally over the next three to four decades by far larger absolute amounts than now envisioned in the Kyoto Protocol over the next decade.

Rome Statute of the International Criminal Court

The Rome Statute of the International Criminal Court (ICC) creates the world's first permanent criminal court to try individuals for genocide, war crimes, crimes against humanity, and aggression once that crime is defined. It recognizes no immunities; therefore even heads of state, traditionally insulated from prosecution, can be brought to justice for committing atrocities when their countries are unable or unwilling to address the crimes at the national level. The ICC also includes as crimes violent acts against women that had long been overlooked as war crimes. Together with associated improvement of capabilities in national legal systems, the ICC will bolster global security by deterring and prosecuting serious international crimes. It will "end the culture of impunity," the assumption that atrocities can be committed without fear of legal consequences. A functioning ICC will also strongly reinforce the existing taboo against use of weapons of mass destruction.

One of two conditions must be met for the Court to exercise jurisdiction in most cases: (1) the state where the crimes occurred ("territorial state") is party to the Rome Statute or consent to the jurisdiction of the Court *or* (2) the state of nationality of the accused is party to the Statute or consents to the jurisdiction of the Court. These "pre-conditions" do not apply when the Security Council refers a case to the ICC acting under Chapter VII of the UN Charter. There are three ways cases may come before the Court: (1) when a state party has referred a situation to the Prosecutor; (2) when the Prosecutor initiates an investigation; and (3) when the Security Council, acting under Chapter VII of the UN Charter, refers a case. The Rome Statute addresses in several ways concerns that individuals will be the subjects of politically motivated prosecutions, including by requiring Court approval of investigations initiated by the Prosecutor. Nor will the Court infringe upon a state's interest in prosecuting crimes; the ICC is a court of last resort, and has jurisdiction only when the corresponding country is unable or unwilling to prosecute.

The ICC is an independent institution and not an arm of the United Nations. In contrast to the *ad hoc* international criminal tribunals for the Former Yugoslavia and Rwanda, the ICC will also be largely independent of the Security Council. The United States had argued for a court that would be made dependent on the UN Security Council for the cases that could come before it. However, the role of the Security Council was greatly circumscribed in the final text of the Rome Statute. It is this aspect – the degree of independence of the Security Council – that caused the United States to oppose the permanent Court at the same time that it fully supported the creation and maintenance of the *ad hoc* tribunals.

Even before formal negotiations commenced on the draft statute in 1996, the United States attempted to thwart altogether the process toward a permanent and independent court. During the negotiations, the United States unsuccessfully sought amendments to limit the Court's jurisdiction over nationals of non-states parties and to require consent of the state in question prior to exercising jurisdiction over officials and military personnel. When the Statute was adopted by a conference of states in July 1998, the United States voted against it.

The United States engaged in intensive diplomatic pressure tactics and other efforts to alter the statute long after it had been adopted. Nevertheless, President Clinton opted to sign the Rome Statute hours before the period for signature expired on December 31, 2000. In international law, signature of a treaty signifies intent to ratify and not to engage in activities or enact laws contrary to the treaty's object and purpose. Yet Clinton simultaneously backtracked from the prospect of U.S. ratification at the same time that he signed the Statute: "I will not, and do not recommend that my successor submit the Treaty to the Senate for advice and consent until our fundamental concerns are satisfied." U.S. opposition boils down to one problem: U.S. nationals would be subject, like those of other states, to the jurisdiction of an international court.

When the Bush administration entered office, it undertook a high-level policy review of the Statute and concluded that the United States should not be party to the Statute. By letter dated May 6, 2002, the Bush administration notified UN Secretary-General Kofi Annan that the United States does not intend to ratify the treaty and therefore has "no legal obligations arising from its signature of December 31, 2000." Under the laws governing treaty making,

now that the United States has expressed its intention not to be bound by its signature, it is no longer required to refrain from any actions that would defeat the object and purpose of the treaty and the Court.

Since the signing of the Rome Statute in 1998, the United States has followed several avenues to limit the jurisdiction and power of the ICC. The United States began introducing provisions prohibiting the extradition to the ICC of U.S. personnel in the negotiations of Status of Forces Agreements (agreements providing for the placement of U.S. military personnel in other countries). In the absence of existing or renegotiated SOFAs, the United States is now seeking separate agreements which deal solely and specifically with the issue of extradition to the ICC. The United States has also been pursuing similar clauses in Security Council resolutions authorizing peacekeeping forces. When its demand for a blanket exemption for peacekeeping troops from states not party to the ICC was rejected by the Security Council, the United States vetoed the continuation of the UN peacekeeping operation in Bosnia. The move was vociferously opposed by some of the United States' closest allies, including Mexico, Canada and members of the European Union, who resented the cynical strategy of pitting peacekeeping against justice. Intensive negotiations resulted in a Security Council resolution allowing a one-year *deferral* of prosecutions for peacekeepers from non-ICC countries for all peacekeeping operations – not just that in Bosnia – in exchange for the renewal of the Bosnian mission.

Members of the U.S. government are also working domestically to undermine the ICC. On August 2, 2002, President Bush signed into law the American Servicemembers' Protection Act (ASPA), which prohibits military assistance to most countries that ratify the Statute; bars U.S. participation in UN peacekeeping missions; and authorizes the President to use "all means necessary and appropriate" to free individuals held by or on behalf of the ICC (generally interpreted to mean military force).

The current direction of U.S. policy is therefore not only to keep U.S. citizens out of the Court's jurisdiction but also to make it as difficult as possible for participating countries to cooperate with the Court. U.S. policy seems to be aimed at making such cooperation especially difficult for developing countries, which need U.S. support in other arenas such as the World Bank and the IMF. Regardless of U.S. opposition, the International Criminal Court is a reality. The Rome Statute entered into force on July 1, 2002, and the

ICC's jurisdiction took effect that day. The Court is expected to be operational in 2003.

Recommendations

The United States should ratify the Rome Statute and fully participate in the International Criminal Court. Short of total participation, the United States should end the pursuit of bilateral agreements to prohibit the extradition of U.S. nationals to the ICC; repeal legislation prohibiting support for the ICC; and refrain from enacting legislation which conditions military or financial support on a state's non-participation in the ICC. The United States should also end attempts to use the Security Council to undermine the jurisdiction and development or practices of the Court.

TREATIES AND GLOBAL SECURITY

The evolution of international law since World War II is largely a response to the demands of states and individuals living within a global society with a deeply integrated world economy. In this global society, the repercussions of the actions of states, non-state actors, and individuals are not confined within borders, whether we look to greenhouse gas accumulations, nuclear testing, the danger of accidental nuclear war, or the vast massacres of civilians that have taken place over the course of the last hundred years and still continue. Multilateral agreements increasingly have been a primary instrument employed by states to meet extremely serious challenges of this kind, for several reasons. They clearly and publicly embody a set of universally applicable expectations, including prohibited and required practices and policies. In other words, they articulate global norms, such as the protection of human rights and the prohibitions of genocide and use of weapons of mass destruction. They establish predictability and accountability in addressing a given issue. States are able to accumulate expertise and confidence by participating in the structured system established by a treaty.

However, influential U.S. policymakers are resistant to the idea of a treaty-based international legal system because they fear infringement on U.S. sovereignty and they claim to lack confidence in compliance and enforcement mechanisms. This approach has dangerous practical implications for international cooperation and compliance with norms. U.S. treaty partners do not enter into treaties expecting that they are only political commitments that

can be overridden based on U.S. interests. When a powerful and influential state like the United States is seen to treat its legal obligations as a matter of convenience or of national interest alone, other states will see this as a justification to relax or withdraw from their own commitments. When the United States wants to require another state to live up to its treaty obligations, it may find that the state has followed the U.S. example and opted out of compliance.

Undermining the international system of treaties is likely to have particularly significant consequences in the area of peace and security. Even though the United States is uniquely positioned as the economic and military sole superpower, unilateral actions are insufficient to protect the people of the United States. For example, since September 11, prevention of proliferation of weapons of mass destruction is an increasing priority. The United States requires cooperation from other countries to prevent and detect proliferation, including through the multilateral disarmament and nonproliferation treaties. No legal system is foolproof, domestically or internationally. While violations do occur, “the dictum that most nations obey international law most of the time holds true today with greater force than at any time during the last century.” And legal systems should not be abandoned because some of the actors do not comply.

In the international as in the domestic sphere, enforcement requires machinery for deciding when there has been a violation, namely verification and transparency arrangements. Such arrangements also provide an incentive for compliance under ordinary circumstances. Yet for several of the treaties discussed in this report, including the BWC, CWC, and CTBT, one general characteristic of the U.S. approach has been to try to exempt itself from transparency and verification arrangements. It bespeaks a lack of good faith if the United States wants near-perfect knowledge of others’ compliance so as to be able to detect all possible violations, while also wanting all too often to shield itself from scrutiny.

While many treaties lack internal explicit provisions for sanctions, there are means of enforcement. Far more than is generally understood, states are very concerned about formal international condemnation of their actions. A range of sanctions is also available, including withdrawal of privileges under treaty regimes, arms and commodity embargoes, travel bans, reductions in international financial assistance or loans, and freezing of state or individual leader assets. Institutional mechanisms are available to reinforce compliance

with treaty regimes, including the U.N. Security Council and the International Court of Justice. Regarding the latter, however, the United States has withdrawn from its general jurisdiction.

One explanation for increasing U.S. opposition to the treaty system is that the United States is an “honorable country” that does not need treaty limits to do the right thing. This view relies on U.S. military strength above all and assumes that the U.S. actions are intrinsically right, recalling the ideology of “Manifest Destiny.” This is at odds with the very notion that the rule of law is possible in global affairs. If the rule of power rather than the rule of law becomes the norm, especially in the context of the present inequalities and injustices around the world, security is likely to be a casualty.

International security can best be achieved through coordinated local, national, regional and global actions and cooperation. Treaties, like all other tools in this toolbox, are imperfect instruments. Like a national law, a treaty may be unjust or unwise, in whole or in part. If so, it can and should be amended. But without a framework of multilateral agreements, the alternative is for states to decide for themselves when action is warranted in their own interests, and to proceed to act unilaterally against others when they feel aggrieved. This is a recipe for the powerful to be police, prosecutor, judge, jury, and executioner all rolled into one. It is a path that cannot but lead to the arbitrary application and enforcement of law. For the United States, a hallmark of whose history is its role as a progenitor of the rule of law, to embark on a path of disregard of its international legal obligations is to abandon the best that its history has to offer the world. To reject the system of treaty-based international law rather than build on its many strengths is not only unwise, it is extremely dangerous. It is urgent that the United States join with other countries in implementing existing global security treaties to meet the security challenges of the twenty-first century and to achieve the ends of peace and justice to which the United States is committed under the United Nations Charter.