

Northwestern University School of Law and Katholieke Universiteit Leuven Faculty of Law present the
FOURTH ANNUAL TRANSATLANTIC DIALOGUE—LEUVEN AND CHICAGO

January 24–25, 2005
Chicago, Illinois U.S.A

Reforming the United Nations:

*The use of force to safeguard
international security
and human rights*



KATHOLIEKE UNIVERSITEIT
LEUVEN

This conference is also a Centennial Regional Meeting of the American Society of International Law

Reforming the United Nations: The use of force to safeguard international security and human rights

Sponsors:

Northwestern University School of Law
Center for International Human Rights
Journal of International Human Rights
357 East Chicago Avenue
Chicago, Illinois 60611-3069
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Transatlantic Dialogue Conferences

This is the fourth annual Transatlantic Dialogue conference, co-sponsored by Northwestern University School of Law and the Catholic University of Leuven, Belgium. The conferences are designed to bring together policy makers and experts from both sides of the Atlantic to explore differing views on important matters of mutual interest. The first three conferences, all held at the European Parliament in Brussels, addressed the following issues:

Legal Instruments in the Fight Against International Terrorism (2002)

Capital Punishment (2003)

International Criminal Justice (2004)

The proceedings of the 2002 conference have now been published as *Legal Instruments in the Fight Against International Terrorism: a Transatlantic Dialogue* (Martinus Nijhoff Publishers 2004).

Northwestern University School of Law

With a substantive focus on two areas, international human rights and the globalization of business, Northwestern University School of Law prepares both domestic and international students for practice in the changing world while the faculty informs leading public policy decisions and debates regarding international human rights and international trade. Established in 1998, Northwestern Law's **Center for International Human Rights** (www.law.northwestern.edu/humanrights) is dedicated to fostering the use and study of international law as a means to defend human rights, democracy, and the rule of law. Founded in 2003, the **Northwestern University Journal of International Human Rights** (www.law.northwestern.edu/jihr) is dedicated to providing a dynamic new forum for the vigorous discussion of human rights issues among scholars of all disciplines and perspectives.

Catholic University of Leuven

Founded in 1425, the Katholieke Universiteit Leuven is one of Europe's leading academic institutions. It is a private, Flemish University of Catholic signature with an international orientation. A center of both research and education in a broad range of fields, K.U. Leuven offers programs that integrate professional training into a broad ethical, cultural and social context of education. Rather than passing on mere factual knowledge, K.U. Leuven promotes the skills of identifying, formulating, and solving problems. Special attention is paid to the steady evaluation of its teaching in order to enhance the student's capacity for independent study, to provide intensive individual guidance and an adequate evaluation system, to ensure high didactic qualities of the teaching staff, and the use of new teaching methods and technologies. Additional information is available at www.kuleuven.ac.be.

All events take place, free of charge, at Northwestern University,
Wieboldt Hall, 340 East Superior, Chicago, Illinois, in the 4th Floor Conference Center, Room 440.

Monday, January 24

8:30–9:00 a.m.

REGISTRATION AND COFFEE

9:00–9:30 a.m.

WELCOMING REMARKS

David Van Zandt, Dean and Professor,
Northwestern University School of Law

Co-Sponsoring Consuls General

9:30–10:15 a.m.

KEYNOTE ADDRESS

Recommendations of the Secretary- General's High-level Panel on Threats, Challenges and Change: A Member's Perspective

Sir David Hannay, Member, Secretary
General's High-level Panel, former Permanent
Representative of the United Kingdom to the
United Nations

10:15–10:30 a.m.

COFFEE BREAK

10:30–11:30 a.m.

COMMENTARY BY AMBASSADORS TO THE
UNITED NATIONS

Moderator: **Douglass Cassel**, Director, Center
for International Human Rights; Clinical
Professor of Law, Northwestern University

Ambassador **Johan Verbeke**, Permanent
Representative of Belgium

Ambassador **Allan Rock**, Permanent
Representative of Canada

Ambassador **Enrique Berruga Filloy**,
Permanent Representative of Mexico

Ambassador **Richard Williamson**, U.S.
Representative to the U.N. Commission on
Human Rights and former Alternate
Representative of the United States to the
United Nations for Special Political Affairs

11:30 a.m. – 12:30 p.m.

COMMENTARY BY EXPERTS

Moderator: **Jan Wouters**, Professor, Faculty of
Law, Catholic University of Leuven, Belgium

Lee Feinstein, Senior Fellow in U.S. Foreign
Policy, and Deputy Director of Studies, Council
on Foreign Relations

Ian Hurd, Assistant Professor of Political Science,
Northwestern University

Joshua Muravchik, Resident Scholar, American
Enterprise Institute

Michael O'Neill, Counsellor, United Kingdom
Mission to the United Nations

12:30–1:00 p.m.

QUESTIONS AND OPEN DISCUSSION

1:15–2:30 p.m.

LUNCHEON

Speaker: Ambassador **William Luers**, President,
United Nations Association of the United States

2:45–3:45 p.m.

Preventive Use of Force: The Case of Iraq

Moderator: **Stephen Sawyer**, General Counsel,
Center for International Human Rights; Adjunct
Professor of Law, Northwestern University

Henry Bienen, President, Northwestern
University

Ambassador **Feisal Istrabadi**, Deputy Permanent
Representative of Iraq to the United Nations

Jan Wouters, Professor, Faculty of Law, Catholic
University of Leuven, Belgium

3:45–4:15 p.m.

COFFEE BREAK

4:15–5:15 p.m.

QUESTIONS AND OPEN DISCUSSION

Tuesday, January 25

8:30–9:00 a.m.

COFFEE AND REGISTRATION

9:00 a.m.–12:30 p.m.

THE UNITED NATIONS AND THE USE OF FORCE
TO SAFEGUARD HUMAN RIGHTS

9:00–10:00 a.m.

**The Collective International Responsibility
to Protect: The Case of Rwanda**

Moderator: **Paul Lemmens**, Professor, Faculty
of Law, Catholic University of Leuven, Belgium

General **Romeo Dallaire**, Canada, Former
United Nations Commander in Rwanda

John Shattuck, CEO, John F. Kennedy Library
Foundation, Former U.S. Ambassador to the
Czech Republic, Former Assistant Secretary of
State for Democracy, Human Rights and Labor

10:00–10:30 a.m.

QUESTIONS AND OPEN DISCUSSION

10:30–10:45 a.m.

COFFEE BREAK

10:45–11:45 a.m.

**The Collective International Responsibility
to Protect: The Case of Darfur**

Moderator: **Bridget Arimond**, Assistant
Director, Center for International Human
Rights; Clinical Assistant Professor of Law,
Northwestern University

Georgette Gagnon, Deputy Director, Africa
Division, Human Rights Watch, member of
mission to Darfur

Paul Lemmens, Professor, Faculty of Law,
Catholic University of Leuven, Belgium

David Scheffer, Visiting Professor of Law,
George Washington University; Former United
States Ambassador at Large for War Crimes Issues
(*by video conference*)

Ambassador **Richard Williamson**, U.S.
Representative to the U.N. Commission on
Human Rights and former Alternate
Representative of the United States to the
United Nations for Special Political Affairs

11:45 a.m.–12:15 p.m.

QUESTIONS AND OPEN DISCUSSION

12:15–12:30 p.m.

CLOSING REMARKS

Douglass Cassel, Director, Center for
International Human Rights; Clinical Professor
of Law, Northwestern University

The High-level Panel and Its Recommendations

Following UN debates over military interventions in Rwanda and Iraq, Secretary-General Kofi Annan in 2003 convened a High-level Panel on Threats, Challenges and Change, composed of 26 “eminent persons.” Their December 2004 report, *A More Secure World: Our Shared Responsibility*, makes scores of recommendations to reform the UN. The most important are to be taken up by the UN General Assembly in 2005.

This conference will focus on Panel recommendations in three inter-related areas: the use of force to preserve international security and to safeguard human rights, and restructuring the UN Security Council. The following are among the points that will be discussed:

UN Record: While criticizing the UN and recommending reforms, the Panel strongly supports the UN. Without it, “the post-1945 world would very probably have been a bloodier place.” Collective security institutions like the UN “have made critical contributions to the maintenance of international peace and security.” The Panel calls on Member States to “rededicate themselves” to UN purposes and principles and to match “political will with the necessary resources.”

Threats to International Security: The Panel views international security broadly. Dangerous security threats are not limited to international wars, but “extend to poverty, infectious disease and environmental degradation; war and violence within States; the spread ...of nuclear, radiological, chemical and biological weapons; terrorism; and transnational organized crime.” They threaten “human security as well as State security.”

The Panel stresses that these threats are interrelated and affect all States: “The mutual vulnerability of weak and strong has never been clearer.” No one State, “no matter how powerful, can by its own efforts make itself invulnerable to today’s threats.”

Use of Force: The Panel implicitly rejects the Bush Administration doctrine, applied in Iraq, that the United States may use preventive force against potential future threats. The UN Charter “expressly prohibits Member States from using or threatening force against each other.” There are only two exceptions: self-defense (including against imminent threats) and by authorization of the Security Council.

When threats are not imminent, “if there are good arguments for preventive military action, with good evidence to support them, they should be put to the Security Council.” If the Council does not act, there will be time for other strategies, “including persuasion, negotiation, deterrence and containment—and to visit again the military option.”

But the risk to global order is simply too great to accept unilateral preventive action as lawful. “Allowing one to so act is to allow all.”

When the Council considers authorizing the use of force, it should address at least five “basic criteria of legitimacy:” seriousness of the threat, proper purpose in using force, using force only as a last resort, applying only proportional means, and balancing the consequences of using versus not using force.

Humanitarian Intervention: The Panel supports humanitarian intervention when properly authorized by the UN. It endorses the “emerging norm that there is a collective international responsibility to protect, exercisable by the Security Council authorizing military intervention as a last resort, in the event of genocide and other large scale killing, ethnic cleansing or serious violations of international humanitarian law which sovereign Governments have proved powerless or unwilling to prevent.”

In cases of mounting conflict, the Panel suggests that a warning by the Security Council that it is willing to refer cases to the International Criminal Court “might deter parties from committing crimes against humanity and violating the laws of war.”

Security Council Reform: The Panel believes that the issue “is not to find alternatives to the Security Council as a source of authority but to make the Council work better.” Reforms must combine realism with principle: “Recommendations that ignore underlying power realities will be doomed,” but proposals that simply reflect “raw distributions of power and make no effort to bolster international principles” are unlikely to gain widespread adherence.

Reform is now a “necessity.” The Panel proposes two alternative models to enlarge the 15-member Council to 24 members. One model would add six new permanent seats. The other would instead add eight new seats with renewable four-year terms. Under both models the remaining new seats would be for two-year terms. No new members would be granted the veto; the current five veto powers would keep the veto, but pledge not to use it in cases of genocide and large-scale human rights abuses.

Combating Terrorism: The Panel echoes concern that the “war on terrorism” has in some instances corroded the very values that terrorists target: human rights and the rule of law.” It suggests that “approaches focusing wholly on military, police and intelligence measures risk undermining efforts to promote good governance and human rights, alienate large parts of the world’s population and thereby weaken the potential for collective action against terrorism.”

UN Commission on Human Rights: Responding to concerns that some Commission members undermine human rights, the Panel proposes that the Commission be expanded to include all UN Member States, that heads of delegations must be “experienced human rights figures,” and that the Commission be assisted by an advisory council of independent experts.



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Fourth Annual Transatlantic Dialogue

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