

WORLD'S PRE-EMINENT POWER'S RECENT TREATMENT TO INTERNATIONAL LAW: A PARADIGM OF INTERESTS SERVED AND HARMED

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Abstract

The US's recent rejection of some international laws may have been done to ensure American interests but it may have the opposite effects. While its recent rejection of some international legal arrangements has meant an unpopular opinion of America, its interest has been served especially in warfare and environment treaties that America has not signed. But America needs to take a better stance in the issues of international law and embrace 'the fabric of international society and the future of global order' if it wants to survive as the world's pre-eminent power.

George W. Bush has presided over the most sweeping redesign of US grand strategy since the presidency of Franklin Roosevelt. Like President Roosevelt, Bush's sweeping change has been the result of the shock of surprise attack. For Roosevelt it was Pearl Harbour but for Bush it was something different altogether. September 11 showed that such acts that were once between two states can be enacted by players that are not associated with one state in particular. This meant that Bush had to ensure security in a more dangerous world.¹ Bush's March 2006 National Security Strategy clearly showed the result of this shock being manifested in support of the Bush Doctrine. This shift has meant an embrace of power politics to protect American interests.² Before this shock caused by September 11, America did embrace the International Community and the International Law associated with it seen through many humanitarian interventions under Clinton. However even in Clinton's final term this embrace of power politics has been evident in the lack of ratification of many key treaties like Kyoto, the Law of the Sea and the Comprehensive Test Ban Treaty, which were all passed down to Bush when he reached office.³ This embrace of power politics may

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¹ J.L. Gaddis, "Grand Strategy in the Second Term", *Foreign Affairs*, Vol. 84, No.1, pp. 2

² Philip H. Gordon, "The End of the Bush Revolution (George W. Bush's foreign policy)", *Foreign Affairs*, Vol.85, No.4, pp. 75

³ *Ibid*, p.79

have been done to ensure American interests but it may have had the opposite effect. American interests as a result of power politics has both harmed and served by this shift. For example, rejection of international law has meant an unpopular opinion of America which has had political ramifications like little support in Iraq. However this rejection has also served American interests especially in warfare and environment treaties that America has not signed and is therefore not obligated to follow.⁴

This article first discusses the dynamics between the US hegemony and international law; why it wishes to isolate itself from some international legal arrangements, but also why it cannot fully retreat from the process. It then considers the feedback of these rejections assuming that these are to retain US power and position as the global leader.

To understand the situation that was left to Bush in his first term of his presidency, we must see what policies Clinton employed in terms of foreign relations. Bill Clinton's presidency focused a lot on interventionism and the ideals of humanitarian goals. Clinton believed in the forceful promotion of democracy in other countries. This was seen most clearly in the three military interventions that he participated in these being; Somalia, Kosovo and an initiation of a "regime change" that involved four-day bombing campaign in Iraq. These three examples showed that Clinton could show military display in order to ensure the interests of America, although those interests were different to Bush's. Clinton's interests as said-were more towards humanitarian ideals and the spread of democracy.⁵ However Clinton was similar to Bush in a few ways, he also started to reject international law. This was seen most significantly in his non ratification of key treaties like the Kyoto protocol, the Law of the Sea and the Comprehensive Test Ban, despite Clinton being greatly involved in the creation of these treaties. This may be so but Clinton focused more on a "doctrine of integration" that would integrate other countries and international organisations that would help to protect and serve American interests which Bush has not taken an interest in.⁶

Many have suggested that under the Bush Administration there has been a distinct embrace of power politics that has meant a rejection of international

⁴ *Ibid*, p. 78

⁵ Philip H. Gordon, "The End of the Bush Revolution (George W. Bush's foreign policy)", *Foreign Affairs*, Vol. 85, No. 4, pp. 76

⁶ Michael Hirsh, "Bush and the world (George W. Bush)", *Foreign Affairs*, Vol. 81, No. 5, pp. 18

law. This has been clearly seen throughout Bush's two terms but most significantly after September 11.⁷ This embrace has been seen through a number of examples; the most significant being pre-emptive military action in Afghanistan and the "war on terror"⁸, rejection of key treaties including Kyoto Protocol, International Criminal Court and a disengagement from the International Community and in particular the United Nations.⁹ The US has been able to do this because it is one of the largest economies in the world; the victories it experienced during the twentieth century instilled its exceptionalism and its isolationism and unilateralism simply by its immense size. Through this America thought that it could act with total freedom.¹⁰

One of the most significant acts of Bush's Administration that has clearly shown a rejection of International law and an embrace of power politics have been the self-defence action taken in Afghanistan and the pre-emptive action taken in the "war on terror" especially with the military action in Iraq. September 11 brought out a very unilateralist stance from Bush thus creating the Bush doctrine. His doctrine showed the anger that the American people were feeling at the time, and started to show the embrace of power politics in order to protect American security and interests. This was seen in the language that Bush used saying "Either you are with us, or you are with the terrorists" which clearly showed that Bush was trying to separate America and the allies from the future states that they would invade.¹¹ September 11 made America show its enormous power in order to deter terrorism, but also to show that it is doing well in Afghanistan and Iraq. In order to fight terrorism hard power is needed, which is why Bush has shifted towards power politics that supports governments to take military aggression to secure America's interests at home and abroad.¹² The most significant of these interests being the security of its citizens on home soil and to prevent anything like September 11 happening again.¹³ This shift

⁷ J.L. Gaddis, "Grand Strategy in the Second Term", *Foreign Affairs*, Vol. 84, No. 1, pp. 2

⁸ David Krieger, "The Bush Administration's Assault on International Law", *World Editorial and International Law*, pp. 1

⁹ Michael Hirsh, above n 6, p. 19

¹⁰ *Ibid*, p. 25

¹¹ Michael Hirsh, above n 6.

¹² *Ibid*, p. 19-21

¹³ Condoleezza Rice, "Campaign 2000 - Promoting the National Interest", *Foreign Affairs*, Vol. 79, No. 1, pp. 46