

# Reflections on War and Peace, Collective Security, and the Snapping Hounds of Hell<sup>1</sup>

DEAN RUSK<sup>2</sup>

In 1963, our late friend and colleague, Dean Acheson, in some incisive comments on the Cuban missile crisis, rather toned down his esteem for the role of international law in such crises. He said: "The survival of nations is not a matter of law." This widely quoted remark has some truth in it, but it is not the full truth. I suggest a sentence to put alongside it: "In a nuclear world, the survival of nations may depend upon law."

Mr. Acheson was later to say that we had merely been lucky in the Cuban missile crisis. Of course, we were lucky. So were the Russians, as was practically everyone else on earth. But there is such a thing as planning to be lucky and there, I think, the role of law played a large part.

Law as persuasion had much to do with the prompt unity of the Organization of American States (OAS), of the North Atlantic Treaty Organization (NATO), and the support of a large percentage of the so-called non-aligned nations of the world. Fortunately, we had a little time. There is one harsh, elementary fact which has received little comment: we never saw a warhead on a missile on a launcher. This gave us at least a brief time. We also had in mind another thought. We are not going to have nuclear war because any nuclear power makes a so-called thoughtful, rational judgment to launch a nuclear exchange; that is simply suicidal. We could have nuclear war if men are crowded

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1. Address by Professor Rusk, 69th Annual Meeting, American Society of International Law, Apr. 25, 1975. Printed by permission of the American Society of International Law.

2. Professor of International Law, University of Georgia; Secretary of State, 1961 to 1969. A.B., Davidson College, 1931; B.S., St. Johns, Oxford, 1933; M.A., St. Johns, Oxford, 1934; LL.D., Mills College, 1948.

into a corner from which they see no escape, where they lose all stake in the future, where they elect to play the role of Samson and pull the temple down around themselves and everyone else at the same time. It was very much for this reason that President Kennedy elected to use the time he had to try to find a peaceful solution, rather than to take the advice of many to lash out with a heavy military strike.

No one, not even John F. Kennedy were he alive today, could possibly say what the decision would have been had we seen a warhead on a missile on a launcher and, therefore, I cannot flatly deny that there might be some validity in Dean Acheson's famous remark.

Let me remind you of another remark by an esteemed and beloved colleague, Phillip Jessup, who in 1940 said that in most cases the layman is impressed by the reality of the breaches of international law and is not sufficiently aware of the reality of reliance upon it. He need not have limited that to laymen, as I suspect that most lawyers have the same view. I have been struck with the large gap between the "tongue-in-cheek" attitude among lawyers and the public, and the pervasive reality of international law among the nations of the world.

For example, the United States alone has more than 5,000 treaties and agreements with other nations. I would estimate that, in any given year, about one per cent of those might come up for discussion between us and other governments as to whether we or they are faithfully carrying out those agreements.

On any working day, between 1,000 and 3,000 cables go out of the Department of State. A substantial number of those involve important issues of international law. Many of them are dealt with by the legal advisor's office in the Department's clearance processes. A good many more involve legal points where consulting lawyers is no more necessary than to consult a lawyer when one comes to a traffic light at a street corner.

At least 250 million people come through the customs and immigration procedures of the United States each year. Our foreign trade is in the range of 80 to 90 billion dollars in each direction.

Through all of this mass of international relations, the overwhelming majority of international frontiers are peaceful, the overwhelming majority of treaties are complied with, the overwhelming majority of disputes are settled by peaceful means. Yet, that is not the impression held by the American people.

Part of the reason for this is the difficulty in bringing normality to people's attention. There are only a limited number of breathless column inches and minutes on electronic news. In the selection of

what is to be considered news, normality generally falls by the board. I have tried to get more than one of our major television networks to devote just 10 minutes a week to giving people a glimpse of the work of the world that goes on all of the time; I asked one of our principal newspapers for four column inches, in a Sunday edition so large you can barely lift it, just to list the international meetings that were coming up in the following week—but no takers.

The reason I am concerned over this relative ignorance (which has nothing to do with secrecy) about the mass of normality is that out of that mass can come elements of hope and confidence as we build toward the future, and it can give us a greater sense of the perspective from which we can view those situations where the processes of law do, indeed, break down.

### COLLECTIVE SECURITY

It is obvious that international law—and everything which goes along with it, including international politics—has not been effective at the point of desperate need, that is, the effective restraint of the use of force among the nations of the world. In August 1945, I was on the general staff of the Pentagon, but not in a section of the staff that had foreknowledge of the bomb to be dropped on Hiroshima. My first information came with the report of the explosion. I remember a regular army colonel sitting at the next desk saying, at that moment: “War has turned upon itself and is devouring its own tail. From this time forward there will be no point in trying to solve political disputes by war.” But we have not been able to make good on the insight this colonel showed at that special moment.

I also remember newsreels showing Wellington Koo standing before the League of Nations pleading for the help of the international community in the face of the attack on China by Japanese militarists. I can remember the lonely, tragic figure of the Haile Selassie of that day, standing in the same place, pleading for the help that never came. I can also remember that Secretary of State Cordell Hull was not even permitted by our Senate Foreign Relations Committee to make a statement saying that, if the League of Nations used sanctions against the aggressor, the United States would not frustrate those sanctions by insisting upon our right to trade as a neutral nation.

You have your own account of those times in the 1930's, and I will not pursue them further. But out of World War II came the notion of collective security. Following the war, a great many people felt that it was the failure of collective security which led another genera-

tion of young people down the path into the catastrophe of a general war which could have been avoided and prevented. So, you will find collective security written into Article 1 of the United Nations Charter, and you will find it reinforced by various mutual security treaties in this hemisphere, in NATO, and across the Pacific. But I think we must admit that the American view of collective security is eroding. I do not believe this has come about solely because of our experience in Viet Nam. I believe this erosion has come from deeper sources. I can understand when my fellow Americans say:

Look, collective security has cost the American people more than 600,000 casualties in dead and wounded since the end of World War II, and it hasn't been very collective. We put up more than 90 per cent of the troops in Korea, more than 80 per cent of the non-Vietnamese forces in Viet Nam. Maybe collective security is not a good idea.

I am concerned, however, about the alternatives. If not collective security, then what? I believe we must ask ourselves that question in a serious and systematic fashion. We look at collective security at a time when there are pressures toward isolationism in this country, major pressures for deep cuts in our defense budget, insistent demands for withdrawal of our forces from NATO, heavy pressures on foreign aid, protectionist pressures on trade, and pressures from the presence of known and urgent problems here at home, although I suggest that these are not merely problems "here at home."

We have a choice among dangers. There is danger in asking basic questions about collective security, particularly if we are very unsure of the answer. But there is also danger that when the moment of testing comes we will find that we have been proceeding under an illusion, that something were so which is not so.

No president can engage in any serious action involving the Armed Forces of the United States for any period of time without the understanding and support of the American people. On the other hand, there is the danger of miscalculation by other capitals, and I am concerned about what they may conclude as they look at, and listen to, the millions of signals going out of our open society every day. I believe we must rethink these things, and our conclusions can be reached only by serious discussion among the American people.

I also believe that it would be well for us to cut through certain worn phrases and look at the realities behind the words. For example, does detente mean more than a euphoric and unilateral repeal of a cold war which others are waging? Cannot we let it mean a persistent, never-ending search for agreements with those who might

otherwise become our adversaries in order to broaden the base of common interest between us and limit those areas in which violence might occur? Do we need to talk about the domino theory? Is that not a euphemism for something else, that is, the Marxist doctrine of the world revolution? Wouldn't it be better for us to look at that doctrine, see what it seems to mean, see what those who subscribe to it are saying about it—among themselves, see what we think they may or may not do about it or may be capable of doing about it? Let us look at the real thing and not hide the problem under the name of some game played on a living room floor. In the sort of great debate which I suspect we are facing, we ought at least to try to be as candid as possible with each other.

It is entirely possible that we have finished an era in which collective security seemed to be the key to the prevention of World War III. That is yet for decision. I believe it is still an open question.

If not collective security, then what? This question must be answered by our young people—each generation must find its own answer. It is entirely possible that their answer will be far more complicated than the rather simplistic notion of collective security: a large bundle of sticks, no one of which can be decisive, but which all together just might accomplish the job.

#### FACING THE CAUSES OF WAR

The hounds of hell are snapping at our heels. Looking ahead at the problems that are on the plate of the current young generation—whether it is the environment, or the population explosion, or energy, or raw materials, or some other problem—one can see that if we don't get about it, some of the oldest causes of war will once again be upon us, even though they have been quiescent for a period—causes such as burgeoning populations and war for the purpose of seizing raw materials. The time in which to grapple with some of these issues may be limited.

*The Nuclear Arms Race.* I hope we move as promptly as possible to achieve the most far-reaching limitations on the nuclear arms race. So far as I am concerned, it was unfortunate that we did not reach agreement for zero anti-ballistic missiles. For example, suppose we have 2,400 launchers on each side. And suppose each one of 100 anti-ballistic missiles on each side succeeds in knocking down an incoming weapon. That still leaves 2,300 on each side, and only a small fraction of those are required for total destruction. If I were a member of Congress, and the fine print on the Vladivostock agreements were

to come up for consideration in the Congress, I would be inclined to vote in favor of them, because 2,400 is better than 5,000. But I would try to be insistent that we not postpone until the 1980's a search for a means to reduce that aggregate number from 2,400 down, down, down to whatever level can be agreed upon by both sides.

People forget that, in 1946 and 1947, we thought one nuclear power was too many and took a plan to the United Nations to turn over all fissionable material to the United Nations to be used for peaceful purposes—a plan under which there would be no nuclear weapons in anyone's hands. It was a tragic moment in the history of the human race when that plan did not succeed.

If we now could find some solution (and I haven't been able to locate anyone who has the faintest imagination as to how it could be found) to the problem of hiding nuclear weapons away in salt mines in Siberia or in New Mexico, I would be in favor of zero nuclear weapons today. In terms of the safety of the American people, which is a primary object of foreign policy, it is clear that we are much less safe than we were before the scientists, unfortunately, found it possible to develop this hideous weapon.

*Other Arms Races.* How tragic it was that we were not able to achieve agreement either among the countries in the Middle East or on the part of the external arms suppliers for some limitation on the levels at which the arms race would proceed in that troubled and dangerous part of the world. We must get on with this task.

*The Law of the Sea.* This area involves perhaps the most complex, but some of the most important, negotiations undertaken in the post-war period. It would take the most hardy optimist to think that much is resulting from the present session in Geneva. At most, there might result unagreed texts from the committees, which might be a basis for further negotiation. That would mean still another meeting in 1976.

I gather that the ability of the "Group of Seventy-seven" (non-aligned countries now numbering more than 100) has been somewhat paralyzed in its capacity to negotiate because of deep divisions within its own group, because of the special position of the landlocked and geographically disadvantaged countries within the society of developing countries. Meanwhile, the United States almost certainly will be acting unilaterally, at least with respect to the 200-mile fishing zone. We would not be the first to do so. There will be others taking unilateral steps. We may go through a rather painful period of dispute and acrimony, hopefully not violence, until we discover all over again that it is better to have an agreement than it is to have guerilla war on the seas about disputed rights.

I personally do not believe that we shall get agreement on the law of the sea until the matter moves up to the top political levels. These matters are of the highest political content, and the experts cannot deal with such issues.

*Preventive Law.* I have in mind opportunities in the field of preventive law, such as the Antarctica Treaty and the outer space treaties, efforts to anticipate possible future problems and bring them within a regime of law before they get out of hand. At the moment, one of my favorite candidates in that field is in the area of climatic and weather modification. It is not too soon for the international community to establish the guidelines within which further research and development will be carried on in that field. If there are those who are trying to reserve their options, then let us move in and say, "No, no. We are not going to open these Pandora's boxes. Here is the range of activity toward which you can aim your efforts, but stay out of the others."

We must be careful about what seem to be premature assertions of right on such matters as remote sensing and direct broadcasting from satellites. It may look simple from our point of view, but bear in mind we are springing such ideas upon an audience where there is a good deal of ignorance about and suspicion of the unknown. The preparation of the listener is very important.

*Human rights.* The quality of our voice on human rights abroad depends in a very special way upon the quality of our performance here at home. We need to give urgent attention to our own unfinished business in this field before we expect to be listened to with great respect all over the world. For example, it was less than 15 years ago when there were a good many foreign ambassadors in Washington, D.C. who did not know where they could go to have dinner, except at other embassies, ambassadors whose wives asked State Department wives to escort them to some of our principal shopping areas, who would drive their families to the beaches for a Saturday afternoon and be turned away. What thoughts would go through the mind of such an ambassador if the Secretary of State invited him to the seventh floor to give him a lecture on human rights?

I hope we can complete the consideration of the genocide convention. It has been more than 25 years since I had the privilege, on behalf of President Truman, of presenting that convention to the Senate Foreign Relations Committee. Practically every year since then, there has been an informal nose count to see what would happen to the treaty if it came to the Senate floor for a vote. The proponents were so afraid it would be voted down that it has not yet come up for a

solid vote on the merits. If it is necessary for the Senate to say in a resolution of advice and consent that the standards of our Constitution will continue to apply, let them say so. No one abroad will object to that. If we were to bring forward the two major United Nations covenants on human rights, there would be some problems. But I would not object if the Senate resolution would say that these covenants are not self-executing as a matter of law and that they will be put into effect by the Constitution and laws of the United States and of the states thereof. But let us get on with it.

Some caution has been indicated about the circumstances under which we can proclaim our commitments to human rights in other parts of the world. I understand that; I have been through that problem many times. But I suggest that the occasion of our Bicentennial gives us a period of about two years in which we can, in conformity with diplomatic propriety, make clear our commitments to our Constitution and to our Declaration of Independence, to human rights at home and throughout the world. As we celebrate our Bicentennial abroad, we should not lose the opportunity to tell people what we believe in, even though we confess at the same time that we ourselves have not caught up to our own promises.

I strongly favor the further development of what our late colleague, Wolfgang Friedman, called the international law of cooperation, particularly the work of those international organizations whose work affects in a constructive fashion the daily lives of every American. Of course there are irritations, of course we are going to lose some votes, of course there is administrative inefficiency in international administration which must take into account a geographical distribution of jobs and all varieties of administrative practices which one sees around the world. There will be some shortcomings, but these organizations are contributing every day to that Family of Man that must come into being, not as a world government but as an organic set of institutions, if the human race is to solve the problems we face within the next three or four decades.

It makes one weep to look at the allocation of funds made to the United Nations Environmental Program. We are fortunate in having a very effective leader in Maurice Strong from Canada. They have a rather well-thought-out list of subjects they ought to be attacking—but pitifully inadequate funds. Even we found it difficult to come up with eight million dollars a year for the program. I would hope that, somehow, out of 1.4 trillion dollars of gross national product in this country, we could find a little more money to give the program a chance to accomplish some of the urgent tasks it has in front of it.



## PEACE EFFORTS FROM THE GRASSROOTS

I have been concerned about the way in which our national problems are causing Americans to draw into themselves. I have seen on television the self-appointed spokesmen for the poor, for example, complaining about trying to feed anybody at all outside the United States until we have adequately dealt with the problems of the poor here in our own country. The simple fact is, we are not going to be able to deal with unemployment, and recession, and inflation, and balance of payments, and energy, and raw materials, and all the rest of these problems, without a very high degree of international action. There is no place to hide. If we can somehow remind ourselves that solving our national problems requires a major international effort on our part, we might get along.

I feel, perhaps because of my age, that there is a desperate urgency about the kind of work being done by the American Society of International Law and the International Law Section of the American Bar Association. Unfortunately, we have been going through a period when those institutions and activities which must live on the philanthropic dollar have seen hard times. Inflation is hitting such institutions just as hard as it hits anyone else, including those who have traditionally provided the philanthropic dollar: business leadership (nervous, some of them frightened), foundations (worried about shrinking portfolios). It is difficult for such activities to get the support they need. I hope we can combine the reality of international law today with the necessity for a genuine explosion of international law over the next three decades and try to find the resources needed to support action in this field, including, most particularly, the production of a generation of young people who can give us leadership and imagination in building the necessary international law of the future.

In conclusion, let me comment briefly on President Ford's recent remarks at Tulane University about an agenda for the future. There is great strength and resilience in our political and constitutional system. There is great strength in our economy, even though we have some significant problems. But I hope that a Republican president and the leadership of a predominantly Democratic Congress will suspend party politics and, with intensive consultation, put their heads together to give us some leadership on the things we need to do, both at home and abroad, in order to make sense out of our present situation.

Throughout the democratic countries in Western Europe, North America, and Japan, I am concerned that democratic governments are afraid of their own people. They seem too timid to call upon the

people for the required effort. We may indeed be faced with a situation in which we must somehow mobilize in peacetime for the degree of unity and effort which, thus far in my lifetime, we have come up with only during World War II.

I happen to have Harry Truman's great confidence in the willingness of the American people at the grassroots to do what must be done at the end of the day. My final remark is to say that I am delighted that the American Bar Association has decided that the time has come to take the law to the people, not to be so possessive about the law within the profession and in law schools. We who are working in the field of international law have a similar obligation, because international law generally is not understood among the people that really count: those who are at the grassroots. I think there is a strong story to be told, and I think the American people will respond to it. Then we can move perceptibly ahead on the road to a durable peace.

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