AMERICA, WORLD ORDER, AND THE RULE OF LAW

G. John Ikenberry
Peter F. Krogh Professor of Geopolitics and Global Justice
Georgetown University
2002-03 Transatlantic Fellow
The German Marshall Fund of the United States

Robertson Hall
Princeton University
March 28, 2003

Introduction

If the 20th century is viewed as a great struggle between the rule of power and the rule of law among states, the American role in this drama is paradoxical. The United States has been the world’s greatest champion of multilateral rules and institutions, but it has also consistently resisted entangling itself in institutional commitments and obligations. Across the century – but particularly at the major postwar turning points of 1919, 1945, and 1989 – the United States has articulated grand visions of rule-based international order meant to replace or mitigate the balance of power and strategic rivalry. No other country has advanced such far reaching and elaborate ideas about how rules and multilateral institutions might be established to manage international relations. Yet, despite this enthusiasm for law and multilateralism, the United States has been reluctant to tie itself too tightly to such an order.

After 1919, the United States put the League of Nations at the center of its designs for world order – collective security and international law were to provide mechanisms for dispute resolution and the enforcement of agreements. After 1945, the United States came forward with a breathtaking array of new multilateral institutions and rule-based agreements – the UN, GATT, IMF, World Bank. After the Cold War, the United States again pursued an ambitious institutional agenda – the expansion of NATO and the launching of NAFTA, APEC, and the WTO. But at each turn, the United States also resisted the loss of its sovereignty and policy autonomy. The American rejection of the League of Nations in 1919, the International Trade Organization in 1947, and more recently the International Criminal Court (ICC) and the Nuclear Test Ban Treaty area all dramatic evidence of America’s reluctance to commit itself to a rule-based international order.

America’s deep ambivalence about multilateralism and the rule of law is currently on display in its confrontation with Iraq. In fighting terrorism and rogue states who seek weapons of mass destruction, the Bush administration has articulated an assertive, go-it-alone-if-necessary doctrine. In the use of force, the United States will seek coalitions of the willing but it will act if necessary without United Nations or alliance consent. The administration’s recent National Security Strategy document captures this view on the limits of concerted or multilateral use of
force: “While the United States will constantly strive to enlist the support of the international community, we will not hesitate to act alone, if necessary, to exercise our right of self-defense by acting preemptively against such terrorists, to prevent them from doing harm against our people and our country.”

America’s ambivalence about rule-based order has unsettled world politics. The stakes are high because in the decade since the end of the Cold War, the United States has emerged as an unrivaled and unprecedented global superpower. At no other time in modern history has a single state loomed so large over the rest of the world. But as American power has grown, the rest of the world is confronted with a disturbing double-bind. On the one hand, the United States is becoming more crucial to other countries in the realization of their economic and security goals; it is increasingly in a position to help or hurt other countries. But on the other hand, the growth of American power makes the United States less dependent on weaker states, and so it is easier for the United States to resist or ignore these states. As seen by much of the world, the United States is poised between two alternative worlds: one where the United States continues to build international order around multilateral rules and institutions; and the other where the United States begins to disentangle itself from rules and institutions – reverting to a world of power politics and might makes right.

Why is the United States so ambivalent about an international system of rules and laws? As the United States emerges in the 21st century as the world’s preeminent global power, is it likely to retreat even further away from a rule-based order toward power politics? While some American officials want to use American power to resist multilateralism and the rule of law, the lesson of history is that even powerful states – and certainly a unipolar American – are advantaged by supporting and operating within a international system of rules and institutions.

American Ambivalence about Rule-Based Order

Sovereign nation-states inevitably have ambivalent views about international order based on the rule of law. On the one hand, the creation of rules and institutions between states offers the promise of peaceful and stable relationships. Governments are able to conduct their affairs in a more predictable and cooperative environment. On the other hand, rules and institutions entail some diminishment of the nation-state’s sovereign authority. For a state to bind itself to international rules and institutions, it must agree to limit its freedom of action. Nation-states are never able or willing to cede full or absolute authority to international rules and agreements, so the international order is always a mixed system where the rule of law and power politics interact.

The most simple explanation for America’s ambivalence about rules and institutions is that it supports them when it can dominate and manipulate them to its advantage and resists them when it cannot. But a more complex calculation is actually involved. The attraction of rule-based order for the United States is that such an order locks other states into stable and predictable policy orientations thereby reducing its need to use coercion. The United States may be the preeminent global power but to simply rely on power to get its way is foolish and costly. It is much better to get weaker and smaller states to operate within a set of rules and institutions that serve the powerful state’s long-term interests. But the price that the United States must pay for this rule-
based cooperation is a reduction in its own policy autonomy and unfettered ability to exercise power. The central question that American policy makers have confronted in the decades after 1945 in regard to economy and security ties with East Asia and Europe is: how much policy “lock in” of East Asian and European governments – ensured through multilateral institutions and alliance agreements – is worth how much reduction in American policy autonomy and freedom of action?

The creation of rule-based international order over the last half century has been driven in large part by an “institutional bargain” between the United States and the rest of the world. In this bargain, the United States wants to reduce its compliance costs and its European and Asian partners want to reduce their costs of security protection – or the costs they would incur trying to protect their interests against the actions of a dominating America. This is what makes the institutional bargain attractive: the United States agrees to restrain its own potential for domination and abandonment in exchange for the long-term institutionalized cooperation of European and East Asian countries. Both sides are better off with an order built around agreed upon rules and institutions rather than in an order based on the constant threat of indiscriminate and arbitrary exercise of power. The United States does not need to expend its power capabilities to coerce other states; the agreed upon rules and institutions make the order stable and legitimate. Weaker states in Europe and Asia do not need to expend resources seeking to protect themselves from a dominating and unpredictable America. It is the mutually improving nature of this institutional bargain that makes rule-based international order possible.

Postwar Multilateral Order Building

Seen in this light, it is easy to see why the United States sought to build a post-1945 order around multilateral economic and security agreements – organized around the Bretton Woods agreements on monetary and trade relations and the NATO security pact. The United States ended the war in an unprecedented power position and therefore the weaker European states attached a premium to taming and harnessing this newly powerful state. Britain, France and other major states were willing to accept multilateral agreements to the extent that they also constrained and regularized United States economic and security actions. American agreement to operate within a multilateral economic order and make an alliance-based security commitment to Europe and Japan was worth the price: it ensured that Japan, Germany and the rest of Western Europe would be integrated into a wider American-centered international order.

In this emerging postwar rule-based order, the actual restraints on American policy were minimal. Convertible currencies and open trade were in its basic national economic interest. It did make a binding security guarantee to Japan and Western Europe and this made American power more acceptable to European and made them more eager to cooperate with the United States in other areas. But the United States did not forewarn the right to unilaterally use force elsewhere. The United States supported multilateral economic and security relations with Europe. It agreed to operate economically and militarily within multilateral institutions organized around agreed upon rules and principles. In return, it ensured that Japan and Western Europe would be firmly anchored in an Atlantic and global political order that advanced America’s long-term national interest.
States within this American-centered order are connected by economic and security relationships that are informed by basic rules, norms and institutions. Rules and institutions are understood by participating states to matter, reflecting loosely agreed-upon rights, obligations, and expectations about how “business” will be done within the order. It is an open system in which its members exhibit diffuse reciprocity. Power does not disappear from this multilateral order but it operates in a bargaining system in which rules and institutions – and power – play an interactive role. On top of this foundational multilateral order, a growing number and variety of multilateral agreements have been offered up and signed by states. As a global level, between 1970 and 1997, the number of international treaties more than tripled, and from 1985-1999 alone, the number of international institutions increased by two-thirds. What this means is that there is an expanding number of multilateral “contracts” that are being proposed and agreed to by states around the world. Likewise, the United States has become party to a growing number of these contracts.

This is reflected in the fact that there has been a steadily growing number of multilateral treaties in force for the United States during the twentieth century. Roughly 150 multilateral treaties were in force in 1950, 400 in 1980 and close to 600 in 2000. The number of multilateral treaties ratified by the United States over five year increments suggests that in the most recent period – 1996-2000 – the United States ratified treaties at roughly the same number as in earlier postwar periods. Measured in these rough aggregate terms, the United States has not significantly backed away from what is a more and more dense web of international treaties and agreements.

**Unipolar Power and Multilateralism**

Has the rise of American unipolar power in the 1990s reduced its incentives for operating in a multilateral, rule-based order? In this view, the United States has become so powerful that it does not need to sacrifice its autonomy and freedom of action within multilateral agreements. With the end of the Cold War and the absence of serious geopolitical challengers, the United States is able to act alone without serious costs. If this is so, the international order is at the early stages of a significant transformation triggered by what will be a continuous and determined effort by the United States to disentangle itself from the multilateral restraints of an earlier era. It matters little who is president and what political party runs the government. The United States will exercise its power more directly – less mediated or constrained by international rules, institutions, or alliances. The result will be an international order that is more hegemonic than multilateral, more power-based than rule-based. The rest of the world will complain but they will not be able or willing to impose sufficient costs on the United States to alter its growing unilateral orientation.

Many officials in the Bush administration reflect this view. Multilateralism can be a tool or expedient in some circumstances but states will not want to be tangled up in institutions and rules and they will avoid or shed entanglements when they can. Power disparities make it easier for the United States to walk away from potential international agreements. Across the spectrum of economic, security, environmental and other policy issues, the sheer size and power advantages of the United States makes it easier to resist multilateral restraints. That is, the costs of non-agreement are lower for the United States than for other states – which gives it bargaining advantages if it wants them but also a greater ability to live without agreement without suffering consequences.
The shifting power differentials have also created new divergent interests between the United States and the rest of the world—which further reduces possibilities for multilateral cooperation. For example, the sheer size of the American economy—and a decade of growth unmatched by Europe, Japan or the other advanced countries—means that United States obligations under the Kyoto would be vastly greater than other states. In the security realm, the United States has global interests and security threats that no other state has. Its troops are more likely to be dispatched to distant battlefields than those of the other major states—which means that it is more exposed to the legal liabilities of the ICC than others. The United States must worry about threats to its interests in all the major regions of the world. American unipolar power makes it a unique target for terrorism. It is not surprising that Europeans and Asians make different threat assessments about terrorism and rogue states seeking weapons of mass destruction than American officials do. If multilateralism entails working within agreed upon rules and institutions about the use of force—this growing divergence will make such multilateral agreements less easy to achieve—and less desirable in the view of the United States.

Sources of Multilateralism

Yet the United States is not structurally destined to disentangle itself from multilateral order and go it alone. Indeed, there continue to be deep underlying incentives for the United States to support multilateralism and rule-based order— incentives that in many ways are in fact increasing. These sources of multilateralism stem from the functional demands of interdependence, the long-term power calculations of power management, and American political tradition and identity.

Economic Interdependence and Multilateralism

American support for multilateralism is likely to be sustained—even in the face of resistance and ideological challenges to multilateralism within the Bush administration—in part because of a simple logic: as global economic interdependence grows, the need for multilateral coordination of policies also grows. The more economically interconnected that states become the more dependent they are for the realization of their objectives on the actions of other states. Rising economic interdependence is one of the great hallmarks of the contemporary international system. Over the postwar era, states have actively and consistently sought to open markets and reap the economic, social and technological gains that derive from integration into the world economy. If this remains true in the years ahead, it is easy to predict that the demands for multilateral agreements—even and perhaps especially by the United States—will increase and not decrease.

The American postwar commitment to a system of multilateral economic rules and institutions can be understood in this way. As the world’s dominant state, the United States championed GATT—and the Bretton Woods institutions—as a way of locking in other countries to an open world economy that would ensure massive economic gains for itself. But to get these states to organize their postwar domestic orders around an open world economy—and accept the political risks and vulnerabilities associated with openness—the United States had to signal that it too would play by the rules and not exploit and abandon these weaker countries. The postwar
multilateral institutions facilitated this necessary step. As the world economy and trading system has expanded over the decades, this logic has continued. This is reflected in the WTO which replaced the GATT in 1995 and embodies an expansive array of legal-institutional rules and mechanisms. In effect, the United States demands an expanding and ever-more complex international economic environment, but to get other states to support it the United States must itself become more embedded in this system of rules and institutions. Accordingly, it is not surprising that the Bush administration has succeeded in gaining “fast track” authority from Congress and led the launch of a new multilateral trade round.

*American Power and Multilateralism*

American support for multilateralism can also stem from a grand strategic interest in preserving power and creating a stable and legitimate international order. The support for multilateralism is a way to signal restraint and commitment to other states thereby encouraging the acquiescence and cooperation of weaker states. This has been a strategy that the United States has pursued to a greater or less degree across the 20th century – and it explains the remarkably durable and legitimate character of the existing international order. From this perspective, multilateralism – and the search for rule-based agreements – should increase rather than decrease with the rise of American unipolarity. It predicts that the existing multilateral order – which itself reflects an older multilateral bargain between the United States and the outside world – should restrain the Bush administration – and it suggests that the current administration should respond to general power management incentives and limit its tilt toward unilateralism.

The struggle between the United States and its security partners over how to deal with Iraq puts American strategic restraint and multilateral security cooperation to the test. Governments around the world are extremely uncomfortable with the prospect of American unilateral use of force. The Bush administration insists on its right to act without the multilateral approval of the UN – but its decision to take the issue of Iraq back to the United Nations in September 2002 is an indication that the Bush administration senses the costs of unilateralism. By seeking a Security Council resolution that demands tough new weapons inspections and warning that serious consequences will flow from an Iraqi failure to comply, the United States acted to place its anti-Saddam policy in a multilateral framework.

It is not surprising that the administration – despite its unilateral biases – might be sensitive to these costs. A chorus of voices from the United States and abroad have warned American officials that the costs of unilaterally using force in Iraq would be considerable. Some of the expected costs are practical – if the United States goes in alone it will not have sufficient support after the war to engage in the expensive and long-term process of reconstructing Iraq. The diplomatic struggle at the United Nations over the American use of force in Iraq reflects a more general debate among major states over whether there will be agreed upon rules and principles that will guide and limit the exercise of American power. The Bush administration seeks to protect its freedom to act alone while giving just enough ground to preserve the legitimacy of America’s global position and garner support for the practical problems of fighting terrorism. The administration is again making trade offs between autonomy and the benefits that come from gaining the multilateral cooperation of other states in confronting Iraq.
A final source of American multilateralism emerges from the polity itself. The United States has a distinctive self-understanding about the nature of its own political order – and this has implications for how it thinks about international political order. To be sure, there are multiple political traditions in the United States that reflect divergent and often competing ideas about how the United States should relate to the rest of the world. These traditions variously counsel isolationism and activism, realism and idealism, aloofness and engagement in the conduct of American foreign affairs. But behind these political-intellectual traditions are deeper aspects of the American political identity that inform the way the United States seeks to build order in the larger global system. The enlightenment origins of the American founding has given the United States an identity that sees its principles of politics of universal significance and scope. The republican democratic tradition that enshrines the rule of law reflects an enduring American view that polities – domestic or international – are best organized around rules and principles of order. America’s tradition of civil nationalism also reinforces this notion – that the rule of law is the source of legitimacy and political inclusion. This tradition provides a background support for a multilateral-oriented foreign policy.

To be sure, American leaders can campaign against multilateral treaties and institutions and win votes. But this has been true across the last century manifest most dramatically with the rejection of the League of Nations treaty in 1919 but also reflected in other defeats, such as the International Trade Organization after World War II. When President Bush went to the United Nations to rally support for his hardline approach to Iraq, he did not articulate a central role for the world body in promoting international security and peace. He told the General Assembly: “We will work with the U.N. Security Council for the necessary resolutions.” But he also made clear: “The purposes of the United States should not be doubted. The Security Council resolutions will be enforced . . . or action will be unavoidable.” In contrast, just twelve years earlier, when the elder President Bush appeared before the General Assembly to press his case for resisting Iraq’s invasion of Kuwait, he offered a “vision of a new partnership of nations. . . a partnership based on consultations, cooperation and collective action, especially through international and regional organizations, a partnership united by principle and the rule of law and supported by an equitable sharing of both cost and commitment.” It would appear that quite divergent visions of American foreign policy can be articulated by presidents – each resonating in its own way with ideas and beliefs within the American polity. If this is true, it means that American presidents do have political and intellectual space to shape policy – and that they are not captives of a unilateralist minded public.

Conclusion

American ambivalence about multilateralism and rule-based international order will not go away. But there are also some limits on how far the United States will move away from such an order. There is a powerful strain of ideological thinking in America that resists the idea of being bound to international rules and institutions. The commanding power position of the United States makes these isolationist and unilateralist ideas more influential. The war on terrorism – which makes the United States feel vulnerable in very new ways – also legitimates these anti-rule based ideas. There is an “imperial temptation” that lurks in the background of American foreign policy.
But despite these forces and impulses, the United States still needs an international order that is organized about rules and institutional cooperation. The United States cannot achieve its goals without multilateral agreements and institutionalized partnerships with other states. The great drama of the 20th century will continue in the 21st – namely, a drama where the United States both resists and rediscovers the international rule of law.