



The International System, Sovereignty, Territory and the Nation State: a Brazilian Perspective

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The 21st century presents new challenges and opportunities for the international community. The world is changing and every nation must be the guardian of the path taken towards the shared goal of a world of peace, justice and prosperity, based on a commonality of fundamental principles and values. They include those enshrined in the United Nations Charter, which should be observed and implemented by means of a higher degree of international understanding and cooperation.

International order should evolve to include the voices of a larger number of nation states and international organisations. Mutual understandings, collective judgement, negotiations, and agreements ought to form the structural lines of this order, rather than sanctions, ultimatums and military solutions led by one or by a small number of nations. Hard power prevailed in the 20th century and seemed to have already exhausted its capabilities in the first decade of the 21st. There is currently a deficit of diplomacy and a need to enhance legitimacy within the machinery of the international system so as to deal with threats to peace and international security. Democratic values should also be reflected in this process so as to improve representativeness and prevent abuses of power – in the absence of transparency, judicial review and a system of checks and balances within international organisations.

The Cold War was a reminder that relative peace, on a global scale, resulted not from the rule of law but from a balance of military means of destruction, morally condemned, which did not take into consideration

the principles of universal respect for human rights, human dignity and individual freedoms. In this second decade of the 21st century, diplomacy and the rule of law should inspire the international community to act; these values should take a front seat in addressing global challenges since the option of military might and the use of force seem, instead, to be generating a vicious circle of violence and instability.

Our generation is perhaps the first to have a clearer idea of the limits of human activity on Earth. It bears the responsibility of upholding and achieving the commitment to sustainable development, taking the principle of common but differentiated responsibilities into account, at a time of ever greater climate and environmental uncertainties. We have a moral obligation to future generations to ensure that the international order – instead of dividing countries into different categories because of their social, economic, cultural or religious condition – encourages common action to overcome divisions, promoting a true sense of global community, and enhancing the principle of sovereign equality of states.

Mutual understanding among nation states and peoples will be encouraged if the system of representation and decision-making within international organisations is perceived as more inclusive and fair. Only then will such organisations have the full moral authority to succeed in achieving their goals, especially the promotion of the universality of human rights. Indeed, those rights will only prevail globally when racial, religious and cultural divisions lose their current primacy; and when absolute moral values and freedoms stand well above other considerations. These values have to do with the concept of human dignity and the respect for human beings

The world's current generations have inherited a particularly violent legacy, considering the last few hundred years of human history. Yet the atrocities of slavery, colonialism, ethnic cleansing, imperialism, two world wars and the advent of weapons of mass destruction were followed by a significant evolution in the doctrine of human rights. Nowadays, states are more accountable for the treatment of their nationals. International law and human rights legislation advanced significantly as a response to unimaginable cruelty and human suffering. The UN Charter was a turning point in this process.

Despite the more encouraging side of our legacy, it is widely recognised that we have witnessed, in the first years of this millennium, a circumstantial reversal of this trend towards the strengthening of human rights and international law. The so-called “war against terror” has triggered a period of encouragement of the use of force, religious fundamentalism and rationalisation of the idea that military means are workable alternatives to diplomacy and international cooperation. The notion that “might makes right” prevailed in a scale only possible because of the circumstantial unipolarity of the post-Cold War order with the fall of the Berlin Wall, the demise of the Soviet Union and the US reaction to the September 11, 2001 attacks.

The Iraq War, the Guantanamo base, the Abu Ghraib prison, the conflict in Gaza, as well as the rise of Al Qaeda and other violent fundamentalist movements have become symbols of this lost decade for the human rights and civil liberties agenda, frustrating the promise of the rule of law in international relations and giving rise to questions

about whether or not nation states remain as the sole subject and builders of the world order. Since the 1648 Treaty of Westphalia, state leaders have long recognised the state sovereignty as one of the most important principles of the international arena. In the 20th century, however, sovereignty had to be adjusted to make room for the principle of respect for human rights. Akin to banning the threat – or use – of force, the obligation to respect human rights represents a new stage in the international community's development following the Second World War. The ultimate objective of attaining the universality of respect for human rights is not incompatible with the preservation of sovereignty. Both concepts are part of the set of fundamental principles that today structure international relations.

Instead of accomplishing a true reform as expected, after half a century of Cold War, the UN promise of strengthening international law was weakened. Arrogance and unilateralism have replaced the observance of regulations and norms within a framework of transparency and accountability. International responsibility and multilateralism fell victim to a blind urge towards retribution by violent means, contrary to international law. This behaviour, were it framed in a domestic setting, would correspond to a retaliation without due process of law.

Hopefully the lessons learnt during this lost decade will help to generate greater understanding of the real challenges which lie ahead, including the need to return to a broad human rights and social agenda, and to re-establish the authority of international law and international institutions.

The election in 2008 of US President Barack Hussein Obama was in itself an important development and created expectations that his mandate would serve the above-mentioned goals. The emergence of a multipolar world was also a reason for hope as regards restoring and enhancing the rule of law, revitalising multilateralism, and respecting the principles established in the UN Charter.

During his first inaugural address¹, President Obama mentioned the transformation ongoing in the world and the importance of universal values. He recalled that “earlier generations faced down fascism and communism not just with missiles and tanks, but with the sturdy alliances and enduring convictions (...) they understood that our power alone cannot protect us, nor does it entitle us to do as we please. Instead they knew that our power grows through its prudent use; our security emanates from the justness of our cause, the force of our example, the tempering qualities of humility and restraint.”

In Obama's words: “we are the keepers of this legacy. Guided by these principles once more we can meet those new threats that demand even greater effort, even greater cooperation and understanding between nations. We will begin to responsibly leave Iraq to its people and forge a hard-earned peace in Afghanistan. With old friends and former foes, we'll work tirelessly to lessen the nuclear threat, and roll back the specter of a warming planet.”

¹ OBAMA, Barack. President Barack Obama's Inaugural Address, White House, Washington.DC, 2009

In his book *Diplomacy*, published in 1994, Henry Kissinger addresses the question of shaping the New World Order by the notion that “in every century there seems to emerge a country with the power, the will, and the intellectual and moral impetus to shape the entire international system in accordance with its own values”.

In his view, France played such a role in the 17th century, Great Britain in the 18th, Austria and Germany in the 19th. In the 20th, “no country has influenced international relations as decisively and at the same time as ambivalently as the United States”. According to Kissinger, “the singularities that America has ascribed to itself throughout its history have produced two contradictory attitudes toward foreign policy. The first is that America serves its values best by perfecting democracy at home, thereby acting as a beacon for the rest of mankind; the second, that America’s values impose on it an obligation to crusade for them around the world”².

He foresaw then a process of change in the post-Cold War world. The relative military power of the United States would gradually decline. The international system of the 21st century would be marked by a seeming contradiction: “on the one hand, fragmentation; on the other, growing globalization”. He predicted that the “system would contain at least six major powers (...) as well as a multiplicity of medium-sized and smaller countries. For America, reconciling differing values and very different historical experiences among countries of comparable significance will be a novel experience and a major departure from either the isolation of the last century or the de facto hegemony of the Cold War”.

In fact, it is increasingly clear that international order in the 21st century will not be shaped by a single country alone. It will need a true cooperative effort to address hearts and minds of people throughout the planet: global public opinion. It is fully acknowledged nowadays that no country has the power, the economic strength, or the moral authority to do it by itself. International order will be the work of nation states and individuals all over the world. They both need to be inspired and bolstered in their beliefs and deeds. Common values and international leadership will be necessary to carry out this endeavour. When Obama received the Nobel Peace Prize, he said that “peace is not merely the absence of visible conflict. Only a just peace based on the inherent rights and dignity of every individual can truly be lasting”³.

He further stressed the role of diplomacy as he recalled that “in light of the Cultural Revolution’s horrors, Nixon’s meeting with Mao appeared inexcusable – and yet it surely helped set China on a path where millions of its citizens have been lifted from poverty and connected to open societies. Pope John Paul’s engagement with Poland created space not just for the Catholic Church, but for labor leaders like Lech Walesa. Ronald Reagan’s efforts on arms control and embrace of perestroika not only improved relations with the Soviet Union, but empowered dissidents throughout Eastern Europe. There’s no simple formula here. But we must try as best we can to balance isolation and engagement, pressure and incentives, so that human rights and dignity are advanced over time”.

² Kissinger, H. *Diplomacy*, New York: Simon & Schuster, 1994, p. 17-18.

³ OBAMA, Barack. White House, Remarks by the President at the Acceptance of the Nobel Peace Prize, Oslo, Norway, 2009

In Obama's words, "a just peace includes not only civil and political rights – it must encompass economic security and opportunity. For true peace is not just freedom from fear, but freedom from want." He went on to say:

It is undoubtedly true that development rarely takes root without security; it is also true that security does not exist where human beings do not have access to enough food, or clean water, or the medicine and shelter they need to survive. It does not exist where children can't aspire to a decent education or a job that supports a family. The absence of hope can rot a society from within. [...]

Agreements among nations. Strong institutions. Support for human rights. Investments in development. All these are vital ingredients in bringing about the evolution that President Kennedy spoke about. And yet, I do not believe that we will have the will, the determination, the staying power, to complete this work without something more -- and that's the continued expansion of our moral imagination; an insistence that there's something irreducible that we all share. (OBAMA, 2009)

Indeed, the same applies to mankind, to individuals and to the community of nations. Perhaps nothing translates better this insistence that there is something irreducible that we all share than the hope of respecting human rights and human dignity and the commitment to the well-being and survival of humankind.

Obama's nuclear deal with Iran and the reestablishment of relations with Cuba represent a rare and inspiring victory for diplomacy. They ably translate into reality some of the President's ideas, as expressed in the speeches here reproduced. Equally inspiring and revelatory of a morally constructive leadership is Pope Francis' diplomatic engagement, strong instincts and convictions, as well as wisdom expressed through humility. . On the above-mentioned occasions of President Obama's diplomatic prowess, Cuba and Iran, Brazilian diplomacy had already exerted a degree of persuasion, demonstrating courageous new leadership.

Brazil has a long and respected diplomatic tradition. Brazilian diplomatic thought has been influenced from the outset by eminent figures such as Alexandre de Gusmão, José Bonifácio, José Maria da Silva Paranhos Junior (Baron of Rio Branco), Rui Barbosa, to mention but a few of those whose significant contributions to the promotion of principles and values have resulted in foreign policy achievements. These figures also inspired the evolution and consolidation of international public law as they advanced the establishment of paradigms which have raised Brazil's international profile and distinguished its diplomacy.

Brazil has influenced some of the fundamental principles governing international relations, such as non-intervention, peaceful settlement of disputes, sovereign equality of states, and good neighbourliness. Brazil has been an important defender of multilateralism, since the beginning of the 20th century. Founding member of the United Nations, its role is recognised in negotiating important international agreements in key areas (Law of the Sea, the WTO, environment, climate change, sustainable development, poverty elimination, food security, right to and regulation of internet access, etc.).

In an increasingly multipolar world, Brazil reaffirms its diplomatic credentials as peacemaker and peace builder. In addition, it is a force which argues for and defends multilateralism, international law, sustainable development and the reform of multilateral institutions. Such reforms are aimed at enhancing the role of developing countries, promoting greater accountability and reducing emphasis placed on the use of coercive instruments.

Brazil's long-standing tradition of diplomacy has enabled it to achieve, via direct negotiation and arbitration, the peaceful settlement of its borders – a contributing factor towards peace and stability in South America. The ensemble of treaties with its ten neighbouring countries not only helped to cement peaceful relations both in the region and in the Western Hemisphere, but also contributed to the consolidation of international legal norms and practices.

For a century and a half, Brazil has not engaged in military conflict with any neighbouring country, or indeed any nation worldwide. The last time Brazil participated in a war was during the Second World War, when it joined the Allies in defending basic principles which are now enshrined in the UN Charter and in Brazil's Constitution.

Brazil's current Foreign Minister Mauro Vieira has been campaigning in favour of the elimination of the diplomatic deficit in international relations and emphasising the need to uphold diplomacy and better assess and understand its basic principles.

Ambassador Vieira stressed that Brazil's call for an inclusive international order based on peace and shared prosperity means the country must itself be able to articulate and propose as comprehensive a vision as possible. According to Minister Vieira the international order should be based both on peace and development, with full respect for human rights. The binomial is apt because both concepts – peace and development – are interdependent and mutually reinforcing. There is no true peace in the midst of exclusion and deprivation and a peaceful environment is key to overcoming exclusion and promoting development.⁴

The Brazilian Foreign Minister recalled the long tradition of peaceful coexistence in South America, which “was not inherited, but won over many years of diplomatic action”. He highlighted Brazil's goal “of strengthening further the mechanisms for building political consensus and peaceful settlement of disputes”. This has been widely demonstrated by UNASUL, which is an important instrument for the peaceful resolution of political disputes in the continent.⁵

In Ambassador Mauro Vieira's words the international community “must contribute to overcoming the challenge – which is imposed on all of us – to promote prosperity

⁴ VIEIRA, Mauro Iecker, Speech during the graduation ceremony of the 2015 class of the Rio Branco Institute, the Brazilian Diplomatic Academic, Brasília, August 2015. Available at: <http://www.itamaraty.gov.br/index.php?option=com_content&view=article&id=9186:palestra-do-ministro-mauro-vieira-na-abertura-do-xx-encontro-nacional-de-estudantes-de-relacoes-internacionais-brasilia-22-de-abril-de-2015&catid=194&lang=pt-BR&Itemid=454>.

⁵ VIEIRA, Mauro. *idem*

with economic growth, social inclusion and respect for the environment. It is essential to do so fairly, recognizing the unequal levels of development among countries”.⁶

The advent of a multipolar world order, marked by the coexistence of traditional and emerging powers, brings new opportunities and new challenges to nations in the area of defence. Although dialogue, cooperation, emphasis on multilateralism and respect for international law remain important and desirable qualities for the international environment, the rearrangement of the system on a multipolar basis is not, by itself, sufficient to guarantee that peaceful relations between states will prevail during the current transition.

The time has passed for wars of subjugation and conquest, extrajudicial killings, indiscriminate bombings which pose serious risks for civilian populations. Peace terms cannot be imposed, only negotiated. Before examining if it is still possible to completely restructure society in a state defeated by military power, one has to properly gauge the consequences of the use of force in destabilising and destroying whole societies and generating waves of migrants, as we have witnessed in Iraq, Libya and more recently in the dramatic spread of Syrian immigrants all over the world.

We must promote dialogue and persuasion instead of national and international security strategies which view belligerence as the key to peace. Defeating the enemy militarily, without resolving the issues that led to conflict in the first place, should not be regarded as the desired objective. We can do better, fomenting an appreciation for the rule of law and the workings of diplomacy by way of example. The use of force should be always the last resort and strictly in accordance with the United Nations rules and with all due protections for the civilian population.

In view of the so-called “Responsibility to Protect” (R2P), Brazil presented a concept note proposing a new principle “Responsibility while Protecting” (RwP) to the UN Security Council in November 2011, a few days after the end of the North Atlantic Treaty Organisation’s (NATO) operation in Libya. Brazil argued that the Libya mission demonstrated a need for clarity over R2P and that the operation had gone far beyond its Security Council mandate, a view also voiced by several other emerging powers. Brazil’s proposal reflected the concerns of international public opinion with regard to safeguarding civilian lives and an attitude of greater sensibility when it comes to putting them in the middle of a battlefield, as well as calling for more transparency and accountability in the planning and execution of military operations.⁷

Beyond these considerations regarding use of military force, it is also necessary to fulfil the Non-Proliferation Treaty’s disarmament obligations. The world is still hostage

⁶ VIEIRA, Mauro. *ibidem*

⁷ BRAZIL. Permanent Representative of Brazil to the United Nations. “**Responsibility while protecting: elements for the development and promotion of a concept**”. Annex to the letter dated 9 November 2011 from the Permanent Representative of Brazil to the United Nations addressed to the Secretary-General, A/66/551–S/2011/701. General Assembly Security Council. Available at: <<http://cpdoc.fgv.br/sites/default/files/2011%2011%2011%20UN%20conceptual%20paper%20on%20RwP.pdf>>.

to nuclear arsenals which were part of the Cold War process and are still frozen. Preserving the status quo is not an incentive to pursue non-proliferation.

It is worth recalling that Brazil established, together with Argentina, a paradigm of nuclear cooperation in South America which plays an important role for non-proliferation purposes. The two democratic countries undertook a bilateral venture operating under the efficient control of international organisations such as the ABACC (Brazilian-Argentine Agency of Nuclear Materials Accounting and Control) and the IAEA (International Atomic Energy Agency). It represents a blueprint for regional cooperation based on transparency and mutual trust.

Democracy bestows an aura of legitimacy on modern political life; laws, rules and policies appear justified when they are democratic (HELD, 1995)⁸; meanwhile, international relations should reflect more and more democratic values, as advocated by Secretary Generals of the United Nations Boutros Boutros-Ghali⁹ and Kofi Annan.

In this context, Brazil sees its foreign policy and its encouragement and promotion of negotiation and dialogue as essential components for its affirmative and cooperative insertion within the international arena.

In the face of uncertain future scenarios, the cost of inaction by Brazil in the construction of a new international order can be much larger than the immediate burden, i.e. investment in training, preparation and development of resources that are necessary for the full exercise of sovereignty. The consolidation of the new world order's representative multilateral governance structures is of interest to the country. So as to properly participate in bringing these structures about, there must be a strict coordination between foreign and defence policies. The latter must provide the former with safeguards, support and logistics, which are essential for the fulfilment of Brazil's role in the international arena.¹⁰ Defence policy determines the state's capacity to offer protection to its population and to ensure the sovereignty and inviolability of its territory and its territorial waters airspace, seabed and subsoil. State sovereignty, economic competitiveness and the achievement of full development all demand a defence capacity that is compatible with the country's potential and with its aspirations.

In spite of swift-moving changes in recent decades, the international order remains predominantly determined by relationships between nation states. For this reason, Brazil's defence against potential external threats remains the Armed Forces' essential mission.

⁸ HELD, David. *Democracy and the Global Order: From the modern state to the cosmopolitan governance*, 1995, p. 3.

⁹ Democratization internationally is necessary on three interrelated fronts. The established system of the United Nations itself has far to go before fulfilling to the extent possible the democratic potential of its present design, and in transforming those structures which are insufficiently democratic. The participation of new actors on the international scene is an acknowledged fact; providing them with agreed means of participation in the formal system, heretofore primarily the province of States, is a new task of our time. A third challenge will be to achieve a culture of democracy internationally. BOUTROS-GHALI, Boutros. *An Agenda for Democratization*, United Nations, New York, 1996, p. 25.

¹⁰ BRAZIL. MINISTRY OF DEFENSE. *Defense White Paper*. Chapter 1, Brasília, 2012. Portuguese original version accessible at: <<http://www.defesa.gov.br/arquivos/2012/mes07/lbdn.pdf>>.

Given these considerations, Brazilian diplomacy and defence strategy highlight the importance of South American interstate cooperation, both bilaterally and within the framework of the UNASUL Defence Council. The latter has been working on the convergence of military doctrines and on the building of a concept of regional deterrence.

This being said, transnational threats to national security – which will be referred to below – are also a key concern of the Brazilian Armed Forces and of those of its neighbours.

New themes – or new approaches to traditional themes – grew in relevance in the international environment in this century. The protection of sovereignty (an issue connected with the global challenge of drugs and related crimes); the protection of biodiversity, biopiracy, cyber defence; tensions derived from increasing resource scarcity; natural disasters; international crime; terrorism; and actions by unlawful armed groups all exemplify the growing complexity and new interdisciplinary nature of security and defence issues. Considering this, Brazil acknowledges – in accordance with provisions in its Federal Constitution – the need for coordinated policies between different government agencies.¹¹

Further challenges to the country include its ability to face so-called “future conflicts”, namely information warfare as well as small-scale conflicts with uncertain origins and decentralised command-and-control structures that operate through social networks on the Internet.

It is important to strengthen the country’s international relations. Sincere and open dialogue will contribute to foreign policy and to its coherent interaction with defence policy, fostering collective debate and building consensus. Brazilian society’s increased interest in defence issues, in the last few years, is a positive trend. The participation of several sectors of society in the national debate on defence better enables the assessment of such issues.

An international scene marked by uncertainties has as much a direct influence on Brazil’s foreign policy as on its defence policy. The phenomenon of globalisation brought about the escalation of threats of different natures, like drug and weapons trafficking and maritime piracy, all of which test the state’s ability to adapt and react to new perils. The deepening of the global financial crisis also reveals possible damage to social, energy and environmental conditions, with clear effects on world peace and security.

Brazil actively works for the construction of a participative and inclusive world community. The country commits itself to the promotion of “cooperative multipolarity”, a term which summarises the multipolar power structure currently being consolidated worldwide, within a framework of diplomacy and cooperation. In this strategic environment, the international community must do its utmost to ensure global governance mechanisms that better represent this new international reality. Such mechanisms must ensure

¹¹ BRAZIL. MINISTRY OF DEFENSE. 2012, *idem*.

world peace and security for the good of all humankind. The new power structures of the 21st century should not favour or uphold conflictual – or exclusionary positions, inherited from the international orders that prevailed during the 20th century.

Policies that are perceived as fair and legally correct can inspire leadership and raise the moral authority of the collective system of maintenance of peace and security. Yet, if they are perceived as lacking representation, transparency and consistency, a question of legitimacy tends to weaken eventual international consensus. In a more inter-dependent world, the support of national and international public opinion is important to ensure the effectiveness of concerted actions by the international community. Securing the legitimacy of the multilateral system and of its actions will remove the room for manoeuvre of those individuals or non-state groups engaged in violent activities which represent a threat to international peace and security.

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