

# HUMANITARIAN INTERVENTION, NEUTRALITY AND INTERNATIONAL DEMOCRACY IN THE WORLD AFTER THE COLD WAR<sup>1</sup>

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Neutrality is a concept that cannot be isolated from the notion of state sovereignty and its development after the Cold War. Over the years, the notion of state sovereignty has changed and so have international relations. Consequently, the notion of war has also changed. The international community is set on guaranteeing peace through any possible means. Nonetheless, there has also been an escalation of violence within states, which does not amount to a war between states. Moreover, there has also been a dangerous escalation of terrorist attacks that are symbolical in the sense that they do not reflect overt differences in political ideology between states or peoples. This sort of strife cannot be said to be war, but it can be termed a "private war". Hence one can speak of a "new war", which does not involve war between states or aimed at liberating states. This new reality will have to be addressed through international co-operation and hence a new international legal order has to be created: a legal order based on universally recognised rights, at the basis of which lies human dignity.

1. In Malta, the debate between those in favour and those against the entry of Malta into the EU is developing with great liveliness. The arguments in favour and against membership, particularly in the political field, are many but the fundamental argument is that dealing with neutrality. Those in favour of neutrality hold that

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neutrality has a value which is still real and actual, and this not only because it deals with an obligation sanctioned by the Constitution, but also because it protects Malta in the post-Cold War world. This is a world which while it is no longer dominated by two superpowers is nevertheless not peaceful. This was also clearly shown by the spectacular acts of terrorism against the US on the 11<sup>th</sup> September, 2001, in which the number of lives lost is comparable to those incurred in a war. It is also held, following this line of argument, that a small island such as Malta, which lies at the centre of the Mediterranean, in a sea which is at the heart of some of the world's harshest religious, ethnic and military conflicts, may be better protected by a choice of impartiality and hence from the fact of not forming part of a great power such as the EU, and consequently, of military alliances which membership in the EU would involve. Alignment with the Northern-Mediterranean countries could open Malta to any type of reaction from the Southern-Mediterranean countries: this is what is being held by those who favour the neutrality of Malta.

Undoubtedly, at the basis of this debate on neutrality, there are also long-standing internal political questions. Consequently, Maltese politics continues to be divided by a fine – yet strong – line: on the one hand there are those in favour of Europe and of Atlantic politics and on the other hand there are those in favour of a preferential relationship with the Southern-Mediterranean countries. However, beyond the problems, particularly internal problems, which imply that Maltese neutrality is a unique case in the varied world of neutral and non-aligned states, it's also important to ask whether neutrality has a future in a world of interdependence and integration, considered the constant erosion to which the powers which are at the basis of national sovereignty are being subjected. In other words, it is important to consider nowadays the real parameters within which the States may decide autonomously their own foreign policy. It is not a legal matter but a political one to understand whether the national legal order has become a mere subsystem of the international legal order. Particularly, the problem is that of establishing whether the national legal order has a subsidiary role with regard to the international legal system. In today's reality, it is difficult to admit that there could exist a foreign policy of the States which is, in fact, autonomous, unconditioned by great international events and by the decisions which regulate the international market and hence the

internal market of the States. These are those events on which war and peace depend.

Through this conditioning, exercised by an international community which tends to identify itself in some values and interests, it is the essence of sovereignty which is questioned. Sovereignty has consisted, over the centuries, in the fact that no State recognised an authority which was above it, nor a superior judge which could decide above the interests and obligations of the State. If this is the case, nowadays, States increasingly appear to be artificial and anachronistic formations replaced by international organisations which take decisions which may have a bearing on the future of the large and little states and hence on the future of the peoples. Besides, at the bottom of the conflicts there are always divisions and contrasts which express an increasingly tumultuous vindication of cultural identities. It is evident that the end of the bipolar world cannot give rise to a world of uniform thought. Peoples refuse to accept a cultural and economic model which has to be necessarily the same throughout the world.

The future of neutrality, therefore, cannot be read separately from that of the Nation-State and in the first place the idea of sovereignty. For centuries, the right to decide war and peace and of assuming the position of aloofness in armed conflict or with regard to military alliance in times of peace has been the most important aspect of the foreign power which sovereign States could exercise. It has certainly been a matter of an ever-decreasing power which was being limited by the rules of law: even war was limited by the *ius in bello*.

Between sovereignty and law there has always been an undying conflict: a conflict which has been resolved more easily with reference to the matter of internal sovereignty once that rule of law constituted the basis of the modern State, but with more difficulty with reference to external sovereignty which till the First World War used to seem absolute and uncontrollable.

This notwithstanding, *ius in bello* and the Conventions to protect States which decided not to take any part in war, not even when it was of a general character were being laid down. They invoked the status of neutrality which was guaranteed to them by the two Hague Conventions of 1899 and 1907. There's a precise relationship between *bellum iustum*, which is characterised by the conflict between two *iusti hostes* and neutrality. Problems arise when war is intrinsically unjust, that is, "illicit" independently of the way it is conducted.

This occurs when it involves the violation of a right – which is not only moral – and its perpetrators are criminals who would be tried. The fact that there were rules adopted to moderate the violence of war – especially the damage to civilians – presupposed that war constituted a “right” of the State, in the field of an international legal order based on the “balance of power” between the States and hence on the possibility of modifying it through the use of force. It also presupposed that the only actors in the international arena were the States which had absolute power to decide peace or war and hence no authority above the States could question these choices nor judge the States as such and the person governing such States for the decision of making war (war did not give rise to criminal sanction but to sanctions of another kind); that the modalities of war consented to distinguish between civil and military populations in term of human cost which every war inevitably brings about. Moreover, it also presupposed that war was the only factor of change in the relationship between the States and hence that it had a constituent value, with reference to the new international legal order, which every war inevitably brings about. Another belief was that the peace between the States was based on a balance of power. And hence war intended to modify this balance. No moral judgment could be expressed on the acceptability of such equilibrium, whether just or unjust, because the moral dimension was not suited to the relationships between the States, holders of rights, but never of duties.

In the moment in which the Treaty of Westphalia recognised the absolute sovereignty as an essential characteristic of the Nation State, the rights of the States constitute the core of public international law. Since then, for three centuries, the natural antagonism between the States characterises the international scenario. International life is based on the principle of conflict between the States. The idea of co-operation and integration between the States is totally alien to this culture. No Authority may determine what the States may or may not do. Only on the morrow of the First World War the problem of condemning aggression through a juridical sanction arose by trying the Emperor of Germany, William II, for having caused war and hence for having committed an “international crime” which was not even codified as such by international law.

Almost few years after the end of World War II the high ranking political officials of the Third Reich and Japan were tried because

responsible of war. Moreover, in the post-war period, the principle of separateness and of the unquestionability of State behaviour faces for the first time a solemn derecognition through the creation of the UN, promoted by the States which had won the War, but also by some defeated States: an international organisation which imposed sanctions on those States which violated peace. The duty to maintain peaceful relations between the States becomes a legal obligation only when the UN is formed. In the Charter of the United Nations, in fact, the monopoly of power is in the hands of the UN. It is not a formal warrant of peace, but it is a warrant which is based on the coercive capabilities of the UN to act against the States violating international law. The UN, therefore, differently from the League of Nations, is not a "disarmed prophet", but a real arbiter of the international conflicts. War, in this context, is not a right of States but it is a crime against international law. This principle, has been held firm on paper even in these years but the situation of the Cold War did not allow the UN to adopt coercive measures against the will of the two superpowers which developed a diplomatic system which was absolutely autonomous with regard to that of the United Nations. Peace depended not on the respect of the rules on paper but on the equilibrium of power. USSR and the USA are aware of the fact that a war between the two of them would have been a nuclear war and hence it would have caused a nuclear holocaust. However, it is especially on the plane of international policy that the "right to war" as the prerogative of sovereign states finds an unsurpassable limit with the beginning of the cold war and the consequent division of the world in two blocs (each of which capable of using nuclear weapons against the other in the cases of conflict). War became impossible because there could not be victors and defeated, since they had equal destructive capacity in case of a nuclear war. The appearance of the nuclear weapon (with "weapons of a first shot" with resolute effect) not only changed the concept of war, in such a way that global war becomes impossible but also changed the relationship between law and war, since rules of war aimed at avoiding the onslaught of the destruction caused by war inflicted on or incurred by the civilian population became totally ineffectual. Nuclear war is necessarily a total war.

The appearance of the nuclear weapon changes the juridical scenario of war. States are no longer equal because not all the States the nuclear weapon. Carl Schmitt's classical war can no longer be

fought. In classical war, the players have the same juridical position. Classical war is a duel between sovereign States which wage war to alter the international order. These States are *iusti hostes*, they deserve equal consideration, and normally between them there does not exist a disproportion of military force. In this context, neutrality has a value. If, on the other hand, the players do not have the same juridical and moral consideration, if one of them is considered a criminal, war is no longer a duel between equals. In this sense, neutrality becomes an inadmissible equidistance between those who sustain the supremacy of international law and those who, on the other hand, want to violate international law.

Neutrality, therefore, already stripped of any value as a principle by an international security system entirely governed by the UN (also with reference to countries which do not form part of such organisation, considering that its fundamental principles are being recognised by the international community as general international law), is also rendered totally useless with the advent of the nuclear weapon, since nuclear war cannot be contained beforehand within given parameters, within limited regions of the world since its devastating effects are wide-reaching. Hence neutrality constitutes only an impossible act of disassociation from the international society, a sort of refusal on the part of one State to socialise with the other States.

2. Considering what has been said so far, after World War II, there has been a real revolution in international relations which has revolutionised the principles of international law which for centuries had regulated the relationship between the States, a new international legal order has been established. The States victors of war wanted to warrant peace through the implementation of international law. The creation of the UN, as has been said before, had to render war impossible. Every conflict between the States, had to find a legal solution beyond the use of force. The system of alliance on which the foreign policy of the great powers was based was simplified. Hence a duopoly is formed: there are only two great alliances rooted in a strong ideology. War which changed the *status quo* in the relations between states in the nuclear age, for what has been discussed so far, becomes directly impossible, and the balance between the two blocs is established on the basis of the equal destructive abilities possessed by each of them. The conflict became

permanent and ideological. However, the world is less violent: global war appeared extirpated from the perspective of politics. The two superpowers, not wanting involvement in direct combat, left the other States, which are their allies or which are subjected to them, the task to duel, and hence to maintain alive the ideological conflict. New regulatory principles of war, of an atypical war which did not belong to the categories of international law were established. The real aim of conflict during the Cold War is the maintenance of the balance of powers of the blocs. The consent necessary to render stable the *status quo* depended on the general agreement between USA and USSR and not on the activity of some arbiter above the parties who applied a new international law, but on the direct relation between the two great powers, which from time to time was changed without the necessity of involving any mediators. Hence, this agreement prevailed on the rules. In theory, the world is always in balance between war and peace, and lives in a situation of not peace and not war but the dissuasion exercised by a balanced destructive power expressed by the two superpowers was enough to warrant peace. The unilateral destabilisation of a regime in any part of the world was feared more for the repercussion which it would have on the rest of the world rather than the instability which it would produce in the region where the conflict is centred. In other words, the internal problems of any State assumed, in this context, immediate global relevance. Any fact which generated local instability could represent a threat to the interests of one of the superpowers, or to one of the great powers allied to either superpower. The effects of a situation of instability are global, because they inevitably effect global duopoly. Since there cannot be a different balance of power in respect of that fixed at the end of the second world war, there is the need to guarantee the *status quo* not only in the relations between the two superpowers, but also within the spheres of influence which to each of one make reference.

In a system of relations between States regulated by a very few rules and no authority, the supreme element at the basis of international order was the balance of powers between the blocs. Even intervention by the United Nations in the local crisis which would have altered that balance, risked creating a new global conflict. In the world of the Cold War, the equality between the States is inevitably on paper; the allied States of the Superpowers enjoyed a sovereignty which more or less limited, especially in Eastern Europe,

where the role of guide of the USSR is not questioned by the satellite states. Cold War tends to reinforce the sovereignty of the States with regard of the international community because it renders impossible the unilateral modification of the international equilibriums or the external military aggression. Small and medium powers are protected, not from the UN Charter, but from the fact of appertaining to a system of alliances which revolves around the USSR or the USA. No superpower may interfere in the internal affairs of the State which belongs to the opposite bloc. Undoubtedly, this situation, reduces the level of political participation and the warrant of rights particularly in the States which are not governed by democratic regimes.

The world was divided in two systems of political and military obedience, which excluded any reciprocal intervention. The eventual conflicts and the same problems created in the rush to weapons were not mediated by third party authorities, but directly by the superpowers, called to guarantee order, each to its sphere of influence.

The states which refused the "Law of the Cold War" had no alternative than to choose non-alignment both on the political and military planes. This choice, perhaps, was a utopic choice because it pursuits a world without superpowers and without arsenals. But it was a choice which was characterised by the illusion to guarantee the cultural plurality. At the basis of this choice, there was the idea of a world which did not have to be founded on the balance of powers. The limit of this policy was that the non-aligned States had no ability to defend themselves from themselves, nor give rise to a third bloc which was militarily self-sufficient.

In post-cold war era, however, the world is free from rigid ideological blocs, build around the supreme role exercised by superpowers which are capable of imposing a "convenient balance" on the global plane, and hence *de facto* suspending the rules and the mechanisms of guaranteeing the peace prescribed by the United Nations.

It is a world which is no longer characterised by a dialectical balance established by any interaction and conflict between the two countries guiding the international community. Hence, it is a world which is inevitably more disordered and which is characterised by the appearance on the world scene of medium powers which once they are freed from the protection of the superpowers of reference,

they intend to assume the role of leaders in their regions. The instability of the world of the post-Cold War era does not depend on ideological contrast, but on the contrast of social or political models which contend for the supremacy, according to the fascinating thesis of Huntington, which deals with the inevitable conflict of civilisations. It depends, therefore, on the rupture of a balance lasting forty years.

The end of communism has produced a change in the regional balances: it has allowed the formation of new alliances between the States, since there were no more ideological ties which conditioned the alliances. More importantly, however, the end of communism has led to the disintegration of multi-ethnic states which were unitary simply because of the dictatorial regimes which ruled them.

Hence, the nature of war changes: the "new war" of these last years will not be a general war, a war of high intensity, formally declared; it will be a local war, of low intensity. On the local level, it can however become permanent, in the absence of a global authority capable of regulating conflicts and of imposing external control. More importantly, it can also become permanent because inevitably it is the expression of undying and deeply-rooted differences which divide the people living on the same territory. Therefore, every cultural or ethnic minority, wants to be identified as a national community, that of becoming a State. Such minority wants to have international recognition as if it were a State. This tendency becomes the greatest factor of instability in the Post-Cold War World. Once the ideological ties have been eroded, the cultural tradition, religion, ethnic divisions become decisive elements which inevitably lead to conflict.

The supremacy of the United States in this context on the plane of economic and military force is not limited by the other powers. The US is in fact a superpower with no competitors. This does not mean however that the end of communism has created a world, in which a superpower may "impose" peace over all people, a world of a unified thought, open to accept the social and economic model which has emerged as the winner from the East-West conflict.

The new world order, therefore, is an order which tends to be unipolarised with regard to political and military power. However, this world order, on the economic and cultural level, is inevitably heavy in conflict and divisions. In the past, it was possible to establish the balance of power on the military plane; nowadays, it is not possible to establish a balance on the level of cultural and ethnic

divisions, if not through a real diffusion of culture of legality and tolerance on the international level.

War, since the antagonism between East and West decreased, is banished from international relations. Not only on the level of principles, but also on the plane of concrete capacity expressed by the stronger nations to avoid any State to use force to take justice in its own hands. Therefore, war is no longer an affair of the States; the use of force, is no longer a right belonging to the states. Rather, it becomes a measure of policy which is resorted to go against the State or substatal entities which violate international law within or outside their borders. Therefore, it is an order normally guaranteed by the powers recognised to the UN to govern the peace but which also the States can impose even by substituting the UN, in case of necessity. It is clear that war between the States becomes impossible and not all the forms of use of force have to necessarily involve the typical characteristics of war either because not all conflicts involve the States, or because of the ways in which war is carried out or for the objectives of war. This does not mean that the "new wars", the wars which in form cannot be defined as real wars, do not pursue the same end, which is military aggression. Let's think of forms of terrorism which for the organisation they can count on, for the political cover they can avail themselves of on the international level, for the ability they have to hit any target (the attacks which occurred in USA in September, which for symbolic character and for the echo they had in the whole world, had been defined as the beginning of the first war of the twenty-first century) produce the same effects of war. The objective of war is that of arriving to the annihilation of the enemy or at least of unilaterally achieving advantages for the victor. Now, if it is undeniable that the wars which happened after 1989 – for the reasons which will be hereunder discussed in full – are not real wars in form, it is also undeniable that the number of human lives lost is the same as that of any normal "war". The logic of war is that of inflicting to the enemy the most serious damage possible, superior to those necessary to achieve the objective for which war is being perpetrated.

The new wars do not tend to modify the international balances, because they are wars which are being carried out within the States, which do not question the balance of power which could interest the community of the States but the rights, the conditions of life of the communities between which war is being fought and

also of other communities which are anyway involved in the conflict.

In a world which has become less stabile and less ordered, it is important that the warrant of international peace is not trusted to one international power. The world does not need a superpower which is the international sentinel of peace. What is needed is a collective security structure. Such structure should be based on a network of states and organisations which are held together by a strong common will. Europe, in this context, may play an important role, because it does not have an imperialist tradition, and hence, it has no long-standing enemies.

The process of European integration, therefore, is not only a warranty of peace in Europe but it also a warranty of peace in the world. Europe, even when it will be absolutely united on the political front, certainly it will not be interested in founding its own imperial presence in the world.

Europe is the continent which in the modern era has seen the perpetration of almost all the "great" wars on its territory. The fact that the European States, which have been the protagonists of so many wars, decide to create a single political institution changes the entire scenario of international relations. This does not only occur because European integration gives rise to a new great power which intends to be side by side with the United States not to be antagonistic to them but because such position reduces the historical contrasts which caused so many wars. In the modern age, the harshest European wars have all been the result of the antagonism between France and Germany.

With reference to these elements of great change in the international arena which have been mentioned, it would be important to ask whether neutrality has any more relevance, particularly on the part of a European state.

Today the world cannot be indifferent to military aggression such as that of Iraq against Kuwait, or to civil wars such as those fought in the territories of ex Yugoslavia, in Somalia or in Rwanda or terrorist attacks also of the great magnitude which have happened in the United States on the 11<sup>th</sup> September, 2001. This events have produced a number of victims not inferior to that produced by a war, as has already been stated. It is clear that no country may declare that it is not interested in taking part in the crusade against the "lords of war" because the "new conflict" with which we are

faced today is not a conflict between different States which decide to resolve conflict through the recourse to arms. It is a conflict between entities, sometimes even illegal which operate on a substatial or supranational level and which are moved by the will to impose a nihilist culture and hence which pursues destruction for its own sake and death for its own sake. And hence no State which is well ordered, organised on the basis of principles and mechanisms which give life to a constitutional system may be equidistant between the conservation of civilisation and its destruction.

3. Recently, many scholars and politicians have explained the reasons leading to the decline in the nation-State (particularly after the Cold War). They have also analysed the consequences which this decline has had on the international security system.

The advent of multinational companies, the creation of a global market capable of conditioning the same political decisions and to avail themselves of the new means of communication has created a new culture of peace. Peace increasingly appears to be the essential condition for development and progress. This is, at least, the underlying idea in the nations which have a sound democratic tradition. For centuries, war has been considered as the natural condition in the relationships between the states in a system of international relations governed by the principle of anarchy. Nowadays, this idea is about to be definitively defeated.

The meaning of the word peace does not merely denote the absence of war. Peace is not an occasional condition, a truce between two wars, but it is the normal condition in the relations between states, taking into consideration that war is no longer a right but it is a crime against international law. For centuries, peoples, once a war was over, they used to prepare themselves for another. Therefore, war appeared to be a lawful solution to resolve the many controversies which divided the States. After the Second World War, there has been the development of a new concept of peace. The world leaders have at last affirmed that peace is the cornerstone of the whole system of international peace. Without peace, there cannot be social justice. With the creation of the UN, these ideas are no longer mere philosophical affirmations but they become principles which lie at the core of a great international organisation as the UN. The absolute state sovereignty is no longer an absolute value, but it is limited by the duty of the States to foster friendly relations between them. In

this context, the States do not have only rights but also duties. Above the States, there are principles and authorities, which the States cannot refuse to recognise. The international balance should be based on the monopoly of force which is recognised only to the UN. The only important element in this collective security system is the idea that justice is the real warranty of international peace. An system of international relations based on an unjust division of the power of wealth, inevitably leaves to conflict between the peoples, and hence it leads to a situation of international anarchy.

Having considered what has been said so far, great cultural progress, therefore, has occurred in these last years. Peace was a negative condition, that is a suspension of conflict. It represented therefore the exception to the rule of the conflict between sovereign states. No one today affirms today that States must be able to impose its pretences. There emerged in the post-War period a new definition of peace, understood as a necessary condition to guarantee a well-ordered international system. The right to peace has been recognised as an undeniable right of people, at least in theory. This idea of peace, as a natural condition and a duty incumbent on the State in the relations between them, recalls a concept of the system of international relationships which revolves around the value of justice. The concept of peace as a necessary condition to guarantee an equitable distribution of resources and political power between the states and the respect of the peoples and the individual within the States replaces peace understood as an incidental pause in conflict. The warranty of peace depends therefore on the warranty of individual and collective rights. If the world does no longer have political and ideological divisions, all the peoples would be able to accept that the UN use force against the perpetrators of violations against human rights. In this scenario, the concept of neutrality appears to be devoid of any value. If the world, needs to warrant the rights to guarantee peace, it cannot be neutral in the conflict between those who fight for the respect of rights and those who deny these rights. Consequently, neutrality appears to be anti-social behaviour. Neutral States would therefore reveal an attitude of self-exclusion from an effort to improve the complex situations in the world. Neutrality, in other words, would constitute the triumph of egoism over solidarity.

The foreign sovereignty of States is not free to pursue any aim. It finds an insurmountable obstacle in the use of legitimate force

against the States which violate international law. Hence, these states do not violate merely the rights of other States but also of the peoples and the individuals. In this context, apart from the States as subjects of international law, there emerge the individuals and the peoples (which are subject to real juridical protection on the international plane.) But above all, the primary aim of international relations changes. It is not only the solution of the States and the controversies which exist between them, but also the warrant of justice in the relationships between the people and the safeguard of the rights of the individuals. Therefore, peoples and individuals are not merely objects of power of the sovereign State as its subjects, but also members of the international community.

The juridical equality between the States, which was the basis of absolutely foreign sovereignty, or almost, to which all States laid claim, becomes secondary when compared to the aim of equality between the peoples and of the individuals, which are the subjects of the same international protection, irrespective of the State in which they live.

Peace which is left in the hands of the States as an option according to their wills becomes a right of the individuals and of the peoples, since it would be a precondition for economic and social development, and also for the democratic and political institutions to function in all freedom.

The policy of the States hence has an insurmountable limit which the maintenance of peaceful relations between the states and the respect of individual and collective fundamental rights. "Pacifism through the law" which was thought to render war less violent becomes a principle which brings order into the whole system of international relations. From this, on the other hand, it emerges that international law increasingly prevails on domestic jurisdiction in the field of human rights.

The international community, however, not only produces new principles to protect human rights, but it creates new authorities which have the role of controlling that the respect for human rights is guaranteed in all the parts of the world. On the international level, therefore, there is affirmed a constituent function of human rights. And it is the same function which the rights have had in the National States at the origins of constitutionalism.

Hence, a precise relationship between internal and international legality is asserted and also between fundamental rights and the

international order. Not only a foreign aggressive policy, but also an internal policy which denies the rights may create political instability on the international level, by creating tension between neighbouring countries, or within an entire region.

Having taken account of all this, neutrality cannot warrant peace any longer. The refusal to be involved in military alliances does not render the world more peaceful when the conflict deals with the respect of rights in any part of the world. The coalitions of States aimed at humanitarian or peacekeeping missions are not military alliances, but they are alliances aimed at improving the conditions of living in war-torn countries. Guaranteeing international security also through the use of force has could improve the conditions of life of a whole people. The essential question, however, is to consider the use of force as a means and not as an end. Through the use of force, in any case, the structures of the state have to be rebuilt. The warranty of rights, therefore, depends on the good functioning of the State, and from the activities of the Courts and of the police which have to be only at the service of the law. To impose peace with arms is useless, if in the territory on which this armed intervention occurs, the conditions for the peaceful cohabitation and economic and social development are not created.

With regard to these objectives, the choice of neutrality appears to be a choice of real politique which leaves things unchanged.

For this reason, in the world ruled by the right of peace of the peoples and of the duty of humanitarian intervention, the value of neutrality is an anti-historic value.

4. From what has been said, it emerges that the crisis of the nation-State constitutes an important factor for the affirmation of the values which belong to "pacifism through the law". The more recent history of pacifism is an account of events aimed at diffusing the culture of peace and of the setting up of normative instruments for its guarantee. The objective was that of juridically controlling the exercise of the foreign power of the States. To achieve such aim, there has been an attempt to create a model of the relationships between states which does not merely maintain the *status quo* by the balance of power, but to guarantee in reality the supremacy of international law and the supremacy, in the international sys, of the authorities *super partes* called to defend it. In other words, the object is to guarantee peace through law (Kelsen); but not any peace

and not any balance. Justice in international relations is the condition necessary to avoid conflict, to guarantee political stability.

If in the past, or in any case, during the years of the cold war, the balance of power and the military force which guaranteed it were the only means of dissuading a State which wanted to commit acts of aggression, in the years following 1989, since bipolar balance has become impossible and since there was no military multipolar balance in sight, the only way of guaranteeing peace was that of organising a network of institutions and political and military defence to guarantee it. Only such security system can avoid the resort to force to resolve conflict between the States.

A system of duties, codified through a multiplicity of international documents and managed by international organisation, especially regional organisation, which, directly or indirectly, operate within the system of the UN, limits the freedom of the States in a matter of exercise of the external power. The aim of these organisations is that of being recognised as actors in the international scenario.

They tend to control the international activities, promoted by the states. In the post-Cold War World, public opinion acquires the unprecedented role of main actor in the international scenario. The people, once freed from the threat of nuclear war, appear to wish to be involved in the decisions which effect the future of humanity. In this sense, the people seem less tolerant of political power. In this climate, the role of the NGO's acquires more strength. The people holds that international politics should be based on the principles of morality both collective and individual. National interest, that is, the interest peculiar to every single State, has appeared to be always less deserving of protection when there are the rights of the individuals and peoples at stake. This is not a totally new process. This has had a slowly matured over the second half of the XX century. These years have seen the approval of documents, international declarations which have banished war as a factor of regulation of international relations and defined the area of fundamental human rights into which the internal sovereignty of States does not enter. The international community lies on the principle— in a certain sense destructive to the international order on which the *ius publicum europaeum* is based – according to which international life cannot escape moral judgement and the States have not merely rights but also duties.

The problem, however, has been for years that of going in this

field, from one normative activity, that of merely prevision of the regulatory principles of the international relations and of the position of every individual before his own State and the international community, to an activity of guaranteeing rights in a concrete manner.

Since war is no longer an instrument through which influence is made on international relations – rather, it is a crime— there are other instruments through which peace and justice may be achieved; in the first place, the intervention of the International community in the affairs of the States to prevent and solve the conflicts.

The great problem which has been created with the end of the Cold War, in the times when international legality is no longer a myth but an achievable political aim, is that of determining who has to warrant order in the world as long as the UN do not have the material means to provide for the “security in the world” with its own means. Once the balance of power which had brought about world peace for years decreases, war is not considered the only factor capable of changing the international balance, it had been asked whether the world which was established after 1989, would be a unipolar or a bipolar world. Analysts have favoured both positions. However, one thing is certain: the post Cold War era will not be an anarchic world, in which States, even the small ones, would be able to make war again each other to regulate their external relations, and in which they can freely exercise their domestic jurisdiction without their being any subject to control and interventions on the part of the international community.

If the States have duties in the exercise of the internal and external sovereignty, and if the violations of these rights involve sanctions on the international level, the more difficult problem would be, of course, that of controlling the lawfulness of internal national policy.

If the duties have precise beneficiaries, the peoples and the individuals, and if they involve activities of control and intervention to prevent war and to guarantee rights, there is no doubt that such duty of control and interventions constitutes the precondition to guarantee lawfulness in the relations between the states and to guarantee the fundamental rights which are threatened within the States. It is only a public opinion, aware of its rights and which has access to the means of information and political participation necessary to mobilise itself can warrant an effective control on the lawfulness of the behaviour of public powers.

When confronted with the duty of interference, which could also involve the use of force, neutrality does not appear as a status because it can produce exemptions from obligations in the relations between one State and the international community. The neutral State has the same duties of all the other States: not only can it not make war (since it is excluded from the status of neutrality) but it also must participate in the functioning of a system of international security which is capable of guaranteeing lawfulness in the relations between the States and within the States, with reference to the human rights. A security system which, given the aims pursued, cannot not have a co-operative order), because all the states in the world of interdependence are together producers and consumers of security.

When considering the problems created by the cold war which has seen the States limiting their own destructive capability through the creation of the institutes and mechanisms which guarantee peace (the UN in the first place) and through gradually reducing their nuclear weapons, it is undoubtedly that the collapse of communism has radically changed the international scene and hence radically questioned the principles on which the ancient international legal order was based. The legal order of the cold war was a "legal order" of war, of a war which was not being fought, but based on the equal destructive capabilities of the superpowers and on the diverse military ability expressed by the single powers within the two systems of alliance. Political stability and peace were not based on the respect for international law but on the ability to dissuade exercised by weapons. In a few months, this scenario changed; in an unforeseeable manner, considering also the rapidity of the collapse of that regime which has no precedent in history, if compared to the centuries which had to pass for the collapse of the Roman empire and the decades during which the crisis of the British empire was concluded which eventually lead to its collapse.

5. It is impossible to understand the new international situation if we consider the collapse of communism is the only reason of the great disorder which today characterises the world. This collapse is surely more relevant but immediately following the collapse of communism, it was not possible to envisage that a dialogue between Russia and the US would have been started. A dialogue which with alternate matters goes ahead particularly in these last months. The terrorist challenge which integralist groups pose to the western world

and primarily to the United States has created a real axis between Moscow and Washington, which constitutes in all probability, the foundation of the new world order.

Some time after the collapse of the Berlin wall and of the historic meeting in Malta between Bush and Gorbachev towards the end of 1990 (in which the USSR and the USA reached an agreement, on the basis of which the United States would support the Perestroika and the USSR would support the international policy of the West, as long as it guaranteed with all possible means, the principles of lawfulness, which had to give order and transparency to international life), the invasion of Kuwait on the part of Saddam Hussein had to unequivocally indicate that the post-cold war world would be less ordered and foreseeable than the old world of two blocs.

Beyond all the political interpretations which had been given to the Gulf War, with particular reference to the severity of the American reaction, backed by the UN with an ambiguous formula which brought to mind that used by the UN in the time of the War of Korea (it had been held that that was a real announcement of the American design to substitute the bipolar order of the cold war with a new global unipolar order), there is no doubt that the new reality, after almost fifty years of immobility on the part of the UN, was constituted by the decision taken by the two superpowers to resort to reacting through the use of arms to an outrageous violation of the international lawfulness, which had occurred through the aggression carried out against a sovereign State. The USSR and USA agreed on the necessity of not accepting the completed fact, without asking themselves who would have benefited from a war fought in the name of the international Community, against Iraq. The principles have prevailed on the politics of power. The warning which from that initiative was issued to all the states – but particularly to the medium powers which were after, since the bipolar equilibrium was over, the leadership in their respective regions on the basis of the achieved military power – was that the end of the Cold War could not mean the return to a situation of international anarchy. The global disorder, which for almost fifty years had been prevented by a system of distinct obediences, guaranteed by the superiority of the military means which the superpowers had at their disposal and the agreement of Yalta – which sanctioned the unchangeability of the spheres of influence assigned to each of the two superpowers – had to be tackled from the start and creating an outrageous precedent.

Moreover, at least in form, the initiative of waging war against Saddam Hussein excluded the UN as regards the operative decisions which dealt with the temporality and the modality of the military strike. Once that in the UN there had been certified the violation of international law on the part of Iraq, the fact that all the UN could do was to give a political coverage to the military mission against Saddam Hussein could not be ignored. The UN was not capable of providing troops to its dependencies; it could only provide that the decisions taken by the Security Council be executed by a coalition of States.

Moreover, the initiative decided by the UN did not leave any margin of doubt on the type of illicit behaviour – it was undeniably a matter of aggression – committed by Iraq against Kuwait. Hence, it was not a matter of a previous authorisation, to give a lesson to Hussein. The Iraqi dictator, on the other hand, was responsible for the commission of grave humanitarian unpunished crimes which had been tolerated for a little too long: such as for example, the ethnic cleansing carried out against the Kurds. Operation Desert Storm was conceived as an operation of international policy, decided in terms of Chapter VII of the Statute of the United Nations: therefore it had a sanction character (in spite of the extraordinary mobilisation, both on the quality and the quantity of the means used) and it could not be confused with a normal act of war. It was not a matter of militarily defeating Iraq, or of destroying the regime of Saddam Hussein, notwithstanding the fact that his tenure of the Iraqi dictatorship was jeopardising the tranquillity of the whole region. Once the aggression was pushed back and the sovereignty of the State of Kuwait was restored, the operation of international policy had to stop: and so it was. The Gulf War at this point constituted an important precedent, in the field of humanitarian intervention, which had to be asserted on the part of the international Community to distinguish between a military operation which had a precise and limited sanctionary character and a war aimed at conquering or committing aggression with the finality of victory of one of the belligerent states and the defeat of another.

In spite of the fact that the troops engaged against Saddam Hussein answered to a whole chain of military commando with the US leading the states which collaborated in the mission, there is no doubt that the political control on the part of the UN has subsisted for the whole duration of the operations and has constituted, for

public international opinion, a guarantee of lawfulness not only of the military initiative, but of its concrete results on the political future of the region. Nobody was ready to accept the Gulf War as an American War.

The Gulf War, in the consideration of public international opinion, has been the resuscitation, as it were, of the UN which was no longer immobilised by the vetoes of the superpower, and also of the affirmation of the co-operation principle in a matter which meant the guarantee of international security.

The new international order definitely does not emerge – this was impossible – from a decision of a coalition of States to take arms against Saddam Hussein, the aggressor of a sovereign state. However, the fact that various States decided to mobilise to render operative an essential principle to safeguard international peace, and the principle according to which the situation in fact imposed militarily to decide the controversies between the States, renders the international Community as an principal actor of the international order. All the States, become, in this light, builders of security: the distinction which has characterised the security system of the cold war between the States producers of security and States which were only consumers of security. The emblematic fact is those States which surely cannot qualify as great powers participated in this operation of highly taxing international policing.

It is not devoid of meaning therefore the fact that in the face of the terrorist attack against the US, the answer of the whole international Community has not stopped at political solidarity expressed to the United States, but it has been translated in a mobilisation, even military, around the United States, perhaps without precedent – for the amplitude of the mobilisation itself. The fact that even the NATO has qualified the terrorist attack as an aggression to a Member States, the US, so much so as to resort to the “reaction clause” prescribed by the Treaty, indicates that in reality, there is the development of a collective security system, within which, the burdens carried by the States are obviously not equal but based on the common sentiment of security and of international lawfulness.

**6.** On the morrow of the end of the Cold War, after the intervention in the region of the Gulf, neutrality appears to be totally inconceivable with regards to an operation of international policing which involves,

for the coverage given by the UN, the international community in its entirety, and hence both the States which have directly participated in the "war" of the Gulf, and also those which, though not participating have anyway shared the philosophy of that operation and its character laying down a fundamental precedent in terms of the establishment of a new international order.

If war becomes illicit not only because prohibited by the principles and the mechanisms prescribed by the security system of the UN (which were also in force during the years of the Cold War, but which were "suspended" by the duopoly exercised by the superpowers on the international community and in the UN) but because against the States which undertake war there is the adoption of coercive sanctions (the international community takes up arms to restore the violated right), it is evident that neutrality does not have any practical reason to exist, because the war against Saddam Hussein is an operation of international police, not a real war. And even military alliance, when faced with the prohibition of war which is so heavily sanctioned, becomes something else, as it were, as regards the former alliances which had the aim of military aggression or the defence from aggression. Military alliances, if they become a useful instrument for restoring legality, they can surely involve neutral States. However, that is not all. With the disappearance of a global ideological and political conflict which divides the world in two blocs, even non-alignment loses its *raison d'être*.

Once, the equilibrium between States are not altered through war, those principles of international law which used to regulate the use of force to render war more human and which also foresaw the choice of aloofness and impartiality with regard to the conflict and to the belligerents considered *iusti hostes* collapse. (Neutrality would only be relevant in a normal war between States).

The facts which developed after the end of the Cold War however show that not only war has become juridically impossible, but also that it is no longer an event which involves the States and hence the whole nation. From this point of view, the aggression which Iraq inflicted on Kuwait was perhaps the only classical war of aggression of our times.

In this sense, the wars which took place in the 90's in the territories of ex-Yugoslavia have become the paradigm of a new type of war which does not see the States in conflict any more, or actual armies fighting against each other. The entire *ius in bello* developed in the

XX century which considers the international subjectivity of the States a decisive element so that it can fight a war regulated by the law, does not find possible application when faced with conflict which does not involve armies fighting each other but, armies fighting against civil populations whose only guilt is that of constituting a minority in the State which perpetrates ethnic cleansing or genocide. This new war is fought between substatal entities which cannot be recognised as subject of international law (since the participants in this new war have little or no say in international fora convened to restabilise local order and halt the most outrageous violations of human rights).

The new wars do not even involve "normal" conflicts aimed at the recognition of independence of one people or of a territory. In the ex-Yugoslavian matter, the principles of self-determination evoked to distinguish between the opposing fighting groups. The idea that the international community may intervene in favour of those who vindicate independence of a people against the State which is the oppressor against one or more ethnic minorities appears founded. In this case, the international community justly violates domestic jurisdiction. There has been a conflict on the ex-Yugoslavian territory not on the right of an ethnic minority which wanted to form for itself a State in the territory in which it has always lived, but on the right of a population to remain on that territory and to resist to the pretension of the State, in which it identifies the majority of the population – to evict the ethnic minorities from the territory and force them to move to another State.

Mary Kaldor has analysed in detail the elements of this "non-war" which is no longer a war between the States, not even wars of national liberation, that is wars fought by an entire people to obtain independence, but "private wars". Kaldor has identified the following characteristics of the "new wars":

a. The "new wars" – in this sense the Yugoslav experience was paradigmatic – are wars which are born from the disintegration of the State and not to subject a State to another. In Yugoslavia after 1989, there was not only the dissolution of the Federal State which Tito had laboriously put together, but there was also the dissolution of any republics of the federation which had very diverse ethnic basis. The push towards the disbanding of the States had been given by various forms of exasperated nationalism which through the disintegration of the State consented the survival of political

nomenclature which had been defeated after the financial ruin of the communist party as the sole party or the leading party.

b. The vacuum of power resulting from the end of the regime and the economic crisis which had become acute after the creation of this vacuum has not rendered impossible a peaceful democratic transition. There hasn't been a revolutionary groups which took over when the ruling class was defeated. Those regimes have collapsed as a result of an implosion which did not leave any alternate ruling classes but groups and adventurers who have tried to substitute the dictatorial regime with an anarchy through fierce privations not only of the economy but also of policy. The internal wars which broke out seemed to be more instrumental to render permanent a situation of chaos produced *in loco* by the end of the regime (and perhaps many members of government, businessmen and common crooks to avoid being brought to justice have abused of disorder) rather to stabilise a new political and social order which would take the place of the one which had collapsed.

Criminal activity, sometimes promoted by organised crime which would be based outside the country, has been protected by war and social chaos and has therefore financed these singular nationalistic wars. In this context, it is clear that the irregular troops, police forces and the private armies and mercenary groups who have sought to find their fortune in the great disorder which had been produced or sent abroad to stimulate new and more extended disorder were stronger as regards the number and means available with regard to the regular troops.

c. These private wars could not obviously respect the rules which on the international level discipline the resort to violence. It has frequently been a resort to genocide which had been perpetuated on a large scale and with unprecedented cruelty.

When faced with such situations, the first duty of the international Community had seemed not that to restabilise the political order, and hence restoring the normal forms of legality, but especially to protect the victims through a massive humanitarian initiative.

In the beginning, international military intervention, during the wars which were being fought in the internal States of ex-Yugoslavia, it had been conceived as humanitarian intervention, necessary to assist the populations which were struck the violence of war; to guarantee the arrival of provisions and medicinals and the necessary

humanitarian channels through which the civil population which were isolated as a result of war would be reached.

In this type of missions, it is essential to create a security framework in such a way that the provision of humanitarian aid became possible whilst protecting the safety of the rescuers. The characteristics of the conflicts which have been fought at the Balkans and the low level of political representation which the fighting factions had on the international level. These two factors have rendered very dangerous peace-keeping operations. The principle actors of the conflicts did not have the capability of managing the crisis on the political level. The traditional UN divisions (peace-keeping forces) engaged in the operations monitoring the crisis situations and in the organisation of humanitarian aids have frequently turned out to be insufficient to face the situations of a real war in which they find themselves involved. In fact, the peace-keeping forces were not equipped to guarantee humanitarian aid and resist eventual armed conflict, but to defend civil populations particularly when they are gathered in protected sites, whose security used to be guaranteed by the international authorities. To guarantee humanitarian aid, there needed to be a real army. The humanitarian operations, therefore, which originally appeared to be distinct in their functions from those of peace-keeping, being justified from the fact that there was fighting and that the possibility of negotiation or achieving a truce seemed remote have become gradually real and proper operations for peace enforcement. Hence, there has been a natural evolution of these operations in the course of work, in the manner that divisions sent only to assist the civil population in fact found themselves in the centre of the fighting and forced to defend themselves from the attacks which the fighting factions inflicted unrelentlessly on the troops which were placed in the conflict.

7. It has therefore been a matter of an inevitable evolution of humanitarian operations gradually becoming peace-keeping operations and hence aimed at putting into practice the decision of the Security Council of the United Nations. The latter, when faced with a very grave crisis, did not limit itself to carrying out a normative activity which distributed fault and reason between the parties to the conflict but has patronised and promoted the peace operations to arrive to a military solution of the conflict but to arrive anyway to the truce and hence to interrupt the spiral of violence which risked

to massacre whole populations and to the isolation of those factions which aimed to bring to the completion the operation of ethnic cleansing. of populations which were more or less consistent.

The most interesting aspect of the activity carried out by the United Nations in these emergencies through the decisions of the Security Council is constituted of the frequent resorting to the coercive measures provided in Chapter VII of the Charter of the United Nations. The Security Council has appeared to be adamant in many occasions of imposing peace and of avoiding humanitarian massacres. However, this has not always occurred. The Security Council has been, on occasion, accused of implementing a policy of two weights, two measures. The Security Council did not always use force to suppress the behaviour of the States which violated international law. The coercive measures were resorted to without requiring the collaboration of the States in which territory military conflict was unfolding. In the case of the new wars, in fact, the territorially sovereign State, is either indifferent as regards the violation of the rights, or is not capable of stopping the violence or it is the State itself which is violating the rights.

Hence, coercive measures had been resorted to normally move against the States as provided in the Statute to react to the violation of international law, to suppress any form of resort to force or to react to the commission of grave and wide humanitarian crimes from whoever they are committed. The objective of the UN Statute was that of warranting the *status quo* in the relationships between the States, and hence avoiding any facts carried out which could modify it. Through the practice of peace operations taken against whosoever threatened or upset (substantial entities or real criminal gangs) the political stability of the States and against those who deeply violated human rights, the repressive mechanism, willed by the Founding Fathers of San Francisco to guarantee the rights of the States, was being put to the service of human rights and to the rights of the peoples.

The philosophy which has justified this radical change in the prospective, with reference to the functioning of the system of security of the UN, cannot be understood if not through the new and wider boundaries of the concept of threat to peace defined by the same Security Council.

The threat to peace, traditionally singled out in international aggression, in aggression committed by one State against another,

in the world of interdependence and of the supremacy of international law is identified in any event, even within a State, which produces instability in a region or in any violence of the masses inflicted on fundamental rights. In fact, the consequence of violence in a world such as the present one, in which the freedom of movement of persons and capital acquires decisive significance, brings about chain reactions destined to have an effect on the social tranquillity of the people who are not necessarily bordering with those where violence is being committed. The concept of a threat to peace, therefore, has to be updated according to the new international scenario which is characterised by the emergence in the international arena of players different from the States.

Facing the social and political factors, which, in this light, threaten the peace employing even the authoritative mechanisms of solution of the controversy and sanctions which had been conceived to stop war between the States and to force them to negotiate peace, poses first and foremost the problem of adapting an international law born to discipline the actions of the States and hence organised on the basis of the foreseeability of facts capable of modifying the system of international relations, to a world which is more disorganised in which new protagonists which enjoy little international representativeness are mushrooming.

The new functions exercised by the UN in this field have given birth to a new practice but the legality of such practise is being highly doubted. It has been observed that the principle of effectiveness, therefore the capacity to impose peace where violence reigns, needs to be employed as the decisive criterion to establish the lawfulness of the decision of the UN Security Council. On the basis of this principle, the legitimacy of intervention, may be evaluated only *a posteriori*.

The UN is legitimated if it manages to impose peace and the measures decided upon are held to be legitimate if they avoid definite massacres. On the other hand, in the face of fighters who are not capable of assuming serious international responsibility because they are not subjects of international law, the only thing which remains to be done is to stop violence with violence.

However in these cases, there is a delicate problem of international democracy, with regards to the decisions which regard such interventions, whilst also taking into consideration that not all the new wars, and the international crimes, as has already been said,

have had the same reaction from the international community. In this sense, it has also to be taken into consideration that military operations may influence the same political future of the territories on which there is intervention, given that only with difficulty can perfect equidistance on the part of who intervenes between the fighters, considered also that some of those parties accept the intervention and others oppose it, even by resorting to violence.

Humanitarian intervention, therefore, inevitably, has caused discussion and will cause discussion for long for the arbitrary actions to which it can give rise. Objectively, it is difficult to distinguish between legitimate intervention and abuse of power in numerous cases. It is therefore difficult to equally distribute reason and blame between the parties to the conflict. Guaranteeing peace in a territory is objectively different than defending the truce reached between the opposite factions. Intervening in an intrastate conflict and imposing peace militarily does not amount to much if then a social and institutional environment capable of accepting peaceful help imposed by the international community is not rebuilt and hence the most remote reasons for the conflict are not faced.

There are aims which are difficult to achieve in social contexts which would have been harshly tried by violence caused by war, and in which it is difficult to guarantee stable peace without bringing to justice the perpetrators of atrocities which would have been committed, in the only way possible, that is, by trying the people responsible for humanitarian crimes. Peace without justice, inevitably, will be sooner or later interrupted by a spiral of violence and revenge. From this point of view, the international community appears to be justly not appeased by reaching any type of peace which perhaps ignored the right of the families of the victims to see tried and condemned the persons responsible of great atrocities. Even if it is right that it is the same local populations to decide the type of process to bring peace would be able to guarantee a stable political equilibrium, nonetheless, the idea that there isn't really peace without justice seem to prevail on any form of realpolitik, both in the ambit of public international opinion and in the countries which have been the stage for recent humanitarian catastrophes.

One thing is sure. Whilst taking into consideration what has been said so far regarding humanitarian intervention and the peace-keeping operations, these not only were bound to bring the peace but also to build it where the conditions necessary for long-term

peace do not subsist, and is clear that in the world of the new wars and of the humanitarian interventions directly managed by the international community the borders of domestic jurisdiction are always becoming more restricted.

If the international community is capable of even setting in order the creation of Tribunals with the aim of judging crimes against humanity, trying the people responsible of such crimes, and hence not stopping before an abstract political responsibility of the State with regard to their commission, it is undoubted that we are faced with a new frontier in the field of fundamental rights. And the proof of this lies in the fact that the promotion of these tribunals through the control of what the States do in this field tends to move more to a supranational level.

When faced with this scenario which influences the international sovereignty – as has been said – of the States neutrality appears to be a real non-value because it is translated in a position of equidistance between the warranty of rights and their violation. And if the new wars have as their primary aim the rights, and therefore, the capacity of a State to know how to defend them, it is evident that every member of the international community cannot not feel directly involved in an action for the protection of rights, such as that which is being discussed.

Even the neutrals cannot not recognise that whilst States are an artificial creation, human rights are not, and that it is along the lines of effective protection of human rights that a project of political stability of the whole world is being drawn up, on which project the security of the traditionally neutral countries depends as well.

The fact that the content of the status of citizenship acquires universal character and it does not depend on the relationship which ties an individual to his own States, changes radically the perspective in which the neutral states could legitimately interpose themselves not only in cases of war between the states, but also when the international equilibrium founded on the respect of the status quo between the States and the unquestionability of their internal order seems unjust. If intervention is a duty, neutrality becomes the violation of the duty.

**8.** The points which have been discussed so far on the relationship between responsibility for human rights and political stability acquire a particular concreteness if applied to the European situation in a

phase of the integration process – which should be concluded in a few years time – in which the idea of bringing together a more united and a wider Europe seems to prevail. The political dimension of the integration process seems to prevail on the commercial one and this inevitably has consequences on the plane of a security policy and hence of the planetary balances which the emergence of a great economic and military power tries to define.

Europe has been the territory on which the greatest wars of the modern age have been fought. Besides, some European States had dictatorships which were capable of suppressing for long decades any form of guarantee of individual freedoms. In addition to this, Europe has been the centre of the conflict between West and East and hence the area which was most at risk in the world during the cold war and when there was the threat of nuclear war.

The idea of one Europe united around the same idea of democracy and citizenship, capable of expressing a “common juridical area” and to organise a model of security capable not only of providing to the need of security in the continent but of constituting an important factor in the establishment of a new world order represents a very concrete possibility for the first time in modern history.

The disappointing lesson of the Balkans where Europe had a marginal role, though it was a European war, has forced Europe to have a precise common identity even in the field of security whilst developing its own strategic capacity on the level of defence and peace-keeping operations. Europe has decided (summit of Helsinki) to project the conversion of its military forces traditionally static and defensive, in corps capable of effecting offensive mission (missions which up till now were only undertaken by the US). In this field, there is still a lot to be done: but the direction of the path undertaken up till now univocal. Hence, Europe seems intent on building its own strategic identity but at the time not refusing the military dimension of NATO and accepting the a co-operative relationship with the US which remains the leader-State on the on the international level on the plane of military force.

After the end of the second world war and the unstoppable Westfalian system of the sovereign States, the international power tends to concentrate on a small number of industrialised States (those of the G8). The political power, on the other hand, in an even smaller number of countries. In the economic but above all, the military field, the US totally outweighs the other States. But after the Cold war it

is unthinkable that US wants and may assume all the responsibility to fulfil the needs of the whole planet in terms of security. Every State must share in the responsibility of guaranteeing "international tranquillity" in proportion of its political power and its economic strength. Of course, no great State may have political weight on the international level if does not contribute proportionately its political power to the "global security", threatened from the modalities of the new wars. International law and the same international criminal justice are subjected to the need of global security.

Europe in particular seems to be aware of this necessity also considering the fact that the most serious crisis which in recent years have given rise to real humanitarian emergencies have exploded in the European territory or the Mediterranean Basin. This would mean that Europe, in the field of security cannot limit itself to play a unilateral Atlantic role. It must also participate in guaranteeing political stability on the Mediterranean and Continental level, on the basis of a precise strategic design, which needs adequate military resources. If the Mediterranean will continue to be one of the most unstable regions of the world, even the social tranquillity of most European States will inevitably run serious risks. No world order may guarantee political stability and social well-being if it does not have political flexibility which allows the necessary "regional adaptations". Europe has to head the constitution of a front of the Mediterranean countries (Italy Spain and France) to establish new co-operative relations of co-operation with the African and Middle-Eastern States with particular reference to Italy, a country which because of the fact that geographically it juts out into the Mediterranean. It is evident that this region will have further possibility of growing if on the Southern coast there will be the promotion of civil development based on collective services: railways, schools and hospitals. Changing the relations between Europe and Africa means creating a type of development based on the creation of "regional economies": it means thinking in terms of development in the terms of a Region State.

Europe also seems to be finally aware of this necessarily Mediterranean dimension of foreign policy and of the common security (CFSP). The process of integration has pacified Europe. Not only; it consents Europe to become a relevant factor of peace on the world level – in a position of equal partnership with the United States. In this sense, militarily Europe is, definitely, less credible

than the United States but politically more credible because it does not have any external enemies. Undoubtedly, European integration develops around a bond, which constituted a resource of the whole world: a structural bond to a policy of peace. Naturally, it does not depend only on Europe to find an acceptable balance with the US to organise a really multilateral system which together guarantee security and shared economic development.

It is true that with the end of the cold war, one of the elements of international situation, perhaps the principal element, which pushed Europe towards the United States, has vanished. But it is also true that the United States looks at Europe, not any more threatened by the USSR, with more detachment. American society, after the disappearance of the historical enemy, considers it unjustified to channel to Europe hefty military expenses which could be used to finance social services in the US. The United States which for years has asked the European partners to commit themselves more strongly on the national level, have started to reduce their military support to Europe. This notwithstanding, if we consider the perspective that Europe acquires a new strategic capacity, through which Europe would no longer be a military pygmy totally dependent on the United States, there is an openly hostile attitude on the American part because it is held that a significant European military role weakens NATO. Anyway, it can also be said that up till now, in American politics there have emerged, even after the end of communism, – and it is not a matter of a new fact in the American history – two schools of thought, one which favours isolation, and one which aims at control, at intervention in all the affairs which could produce political instability, because it is held that any instability may damage the supremacy of the United States and hence also the interests of the country. These two schools of thought have also influenced the relationship the United States has built with Europe particularly after the end of Communism. However, it is important to say that many misunderstandings in the relations between the United States and Europe are not attributable only to an imperial concept of the American power and hence to American diffidence, but to a certain reluctance of the European States, which are ready to pass on to the EU quotas of sovereignty in matters of foreign policy and of security, but not the principle of sovereignty for its own sake. Europe is not yet a single State.

Today, after America has been attacked in its core after the

September terrorist attacks, it cannot take care of the world, it cannot choose arbitrarily allies and enemies once the invulnerability of the American territory was destroyed. America is at war wherever there is one or more organisations which threaten Western civilisation. The US, which had given up till now solidarity to the others, need solidarity, particularly from Europe.

This new reality imposes on Europe new responsibilities and it cannot only vindicate "more equality" in the relations with the United States. Europe has to organise its own military force on the basis of an autonomously defined strategic idea in such a way to impose in fact a really co-operative management of the international security policies.

To this end, the merely decorative Summits and the declaration of good will are not enough; there has to be direct intervention in all the instances where a war has to be stopped or peace needs to be rebuilt.

This being a very ambitious plan, no European State, independently of the level of the interest it harbours in joining the European Union, can withdraw from participating hiding behind its anachronistic neutrality. The EU efforts to include in the European Union also the formerly-communist European States. It is a historic aim. The choice is not between neutrality and participation in the construction and protection of the European strategic design, but between the affirmation or the negation to achieve a foreign policy which has a precise European value.

The EU, with the tasks which it has undertaken after the Treaty of Amsterdam and the Summit of Helsinki can permit even the small and peripheral States – and no one of the European neutral States is a great power – to participate in the definition of a foreign policy which would not be possible to realise through the decision of the single European States. The Presidency of the Community is a position of great responsibility on the international level. It represents in the world a great power such as the EU. A small or medium European State, even if neutral, may occupy this position. It is enough if one considers the role which Luxembourg, which was discharging the duties of the European Presidency, during the Gulf War. Member States may utilise their turn of presidency by inserting specific problems in the agendas of the EU summits, transforming therefore national

problems in European problems. They can also utilise positions taken by Europe to solve internal difficulties, to justify with public opinion measures which are considered unpopular. Therefore it would be too great an error to refuse to participate in the elaboration of a strategic identity and a European military policy in the name of a neutrality which is devoid of any practical purpose.