

## Religion and World Order 1994 Symposium

### A Hindu Response

By Dr. Anand Mohan

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Let me express at the outset my hope that we, as adherents of several faiths, will be able to influence world affairs -- an opportunity we have not had for almost three hundred years. And I say three hundred years, because I go back to Hugo Grotius, whose great work, *De Jure Belli ac Pacis*, appeared in 1625, during the course of the Thirty Years' War (1618-1648), which ended with the Treaty of Westphalia and the establishment of the modern state system. Grotius' magnum opus, *On the Law of War and Peace*, was written partly in response to the terrible atrocities committed during those hostilities by the warring leagues of Catholic and Protestant princes.

Prior to the advent of Grotius, both the civilians and the canonists of the Middle Ages came to identify natural law with right and equity, and conceived human and divine law to be all of a piece. Imagined to be as permanent and as unchangeable as anything in physical nature, natural law was perceived, as Justice Holmes said in one of his celebrated opinions, as a "brooding omnipresence in the sky." Literally all law was felt to be eternally valid and in some degree sacred, as the providence of God was conceived to be a universally present force which touched human lives.

Grotius freed natural law from its ancient alliance with theology and, developing a modern, secularized natural law, emerged as the father of international law. Combining the legal principles derived from the fundamentals of the law of nature with the practical rules created by the positive, customary practices, he paved the way for future writers on international law. No longer above the nations, or even embodying the common elements in all national legal systems, international law evolved as a law between nations. And, although ultimately based on the natural-law right of nations to regulate their intercourse with each other, international law today has become positive or conventional law, established by consent among nations, and its specific provisions derive their binding force solely from the agreement of the nations involved. The Charter of the United Nations is itself a supreme example of this development.

During the past half a century, we have lived under the illusion that a conception of world order, freed from all religious influences and moral compulsions, and rooted solely in the common agreement of nations for the exercise of their sovereign will, would somehow be more conducive to the maintenance of international peace and security. The wheel has turned full circle, and we are being forced to consider if a blunder of Himalayan proportions has not been committed in entertaining this illusion. And it is at this

junction, therefore, that I believe we should seize the opportunity, as men and women of religious conviction, to reassert the primacy of spirit in the ordering of the world.

The United Nations has failed dismally in its central purpose, namely, the maintenance of peace and security, because of its own internal contradictions. The Charter pays lip sympathy to the principle of the sovereign equality of nations large and small, and, in stark violation of this principle, which has been the very cornerstone of international law for three centuries, elevates the Security Council as the apotheosis, not of the rule of law, but as the rule of power without law, scruple, or principle. Not only does the Charter proclaim that a handful of Great Powers are more equal than all the others; it legitimizes the principle that they are absolutely above the law. These Great Powers are under no obligation to maintain international peace and security; they have the unquestioned prerogative of decide when and how and if at all peace and security are to be maintained. This is positivism with a vengeance.

All of us at this table, no matter what faith we belong to, would assert that the first and foremost condition for civilized life, for humane living, is the prevalence of peace. None of the problems and issues that my predecessors on this panel have drawn our attention to -- the ecological problem, the demographic problem, the question of social and economic development, or the issue of human rights -- can be addressed vigorously or adequately in the absence of peace and tranquility. Only if the Security Council is reorganized to reflect, not the calculus of unprincipled power, but the obligations of law, the demands of equity, and the ethical imperatives of a global community can genuine peace be maintained.

The truth is that Chapter VII of the United Nations Charter is largely a dead letter. It embodies the worldview of the nineteenth century, the principle of the balance of power, the dictates of national interest, and the conduct of hegemonic politics. It is concerned with an undefined and obsolete conception of aggression, and does not address the circumstances and situations which cause the disorders and dysfunction of the international system. This system is a system of sovereign states, which we glibly and euphemistically refer to as constituting the international community, but which is actually a conglomeration of discrete and independent entities coexisting uneasily in an anarchical world society.

We are now on the eve of the fiftieth anniversary of the signing of the UN Charter. Therefore, when we talk about the revision to the UN Charter, or the remaking of the United Nations, or fashioning a new world order, we should, as upholders of religious traditions, insist upon respect for the root principles of religion.

In my own religion, Hinduism, the concept of dharma, protean as it might appear to be through the passage of millennial time, is central to our worldview. Dharma literally means "that cosmic principle which maintains and protects the Earth. "All beings are subject to dharma, and no one can claim immunity from its operation. This fundamental, universal principle is inviolable, and all transgressors of this higher, moral law, which is not necessarily antithetical to right reason, must be held accountable for their conduct.

The idea of the unbridled exercise of illimitable power as the ultimate arbiter of international affairs must be banished. This notion is also in perfect accord with the religious traditions of Western civilization, which have always maintained that everyone is under the law, and no one is above it. We recall the fact that the Jewish kings of old were anointed by the prophet, as a reminder that even the monarch is under the law. And that principle has come down to us in modern times through Christian legal and political

theory. In the Islamic tradition, too, sovereignty rests with Allah, and not with any denizens who exercise terrestrial authority.

I would, therefore, conclude by reiterating simply and firmly that we have got to restore this notion that everyone, king or commoner, small power or great, all are under the subjection of the law. Unless we get back to this root principle of the religious traditions of all nations, peace and security will not reign on earth.