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Why Regime Change is (Almost Always) a Bad Idea

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WHY REGIME CHANGE IS (ALMOST ALWAYS) A BAD IDEA

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Every impulse to protect the weak and help the infirm is noble. The impulse to use the means at our disposal to liberate a people from a government that poses no imminent or prospective threat to us, but is so despotic, violent, and vicious that those suffering under it cannot shake it off, is also noble.[1] The action that gives effect to that impulse may sometimes be internationally lawful. It may sometimes be feasible. It is often—but not always—misconceived.

I.

While we owe the currency and, for many, the notoriety of the term "regime change" to George W. Bush and his advisers, regime change in its modern usage—the forcible replacement by external actors of the elite and/or governance structure of a state so that the successor regime approximates some purported international standard of governance—is hardly their creation. States have long meddled in the politics of other states in order to change the governments there to their own liking, whether impelled by revolutionary political, racial, or religious ideology; fear; or sheer lust for power. Because there is no such place as the "international arena," only the territories of states, much of what diplomats rather grandly style "international politics" has always involved the use of such essential tools of statecraft as thuggery, bribery, and messing in other states to change specific policies or the regime as a whole. And as long as war was lawful, regime change was fair game. Almost everything was.

Key principles of modern international law, as expressed in the United Nations Charter and many other authoritative instruments, have adapted the concept of sovereign equality of states so as to erect a substantial barrier against regime change.[2] When stripped of its mystical moss, sovereignty in its modern sense is simply the demand of each territorial community, however small and weak and however organized, to be permitted to govern itself without interference by larger or more powerful states and, at least in 1945, without interference by the entire organized international community.[3] Our international legal system is scarcely imaginable without such a concept of sovereignty, and a system based on sovereignty that would tolerate the general legitimization of regime change is also hard to imagine.

But at the same time modern international law has installed a major imperative *for* regime change: internationally guaranteed human rights. Make no mistake about it: Modern international human rights law does not principally concern itself with problems like the suitability

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[1] In this discussion, I do not consider regime change ancillary to a lawful self-defense action. On this, see W. Michael Reisman, *Assessing Claims to Revise the Laws of War*, 97 AJIL 82 (2003).

[2] *See, e.g.*, UN CHARTER Arts. 1(2), 2(1), 2(7); *cf.* General Assembly Declaration on Principles of International Law Concerning Friendly Relations and Co-operation Among States in Accordance with the Charter of the United Nations, GA Res. 2625, UN GAOR, 25th Sess., Supp. No. 28, at 121, 123, 124, UN Doc. A/8082 (1970).

[3] UN CHARTER Art. 2(7).

for military service of men who wish to wear their hair long or pierce their ears. Its central concern is how to transform regimes whose essential means of governance are repressive terror and torture into governments whose methods of operation approximate human rights standards. A major purpose of the International Criminal Court is to indict culpable *sitting* heads of state, and that purpose necessarily (and not coincidentally) imports regime change. The indictment by the Special Court for Sierra Leone of Charles Taylor, then the elected president of Liberia, constitutes a clear example of purposive international regime change,[4] as does the indictment of Slobodan Milošević by the International Criminal Tribunal for the Former Yugoslavia.[5]

In an important statement, United Nations Secretary-General Kofi Annan said, "State sovereignty, in its most basic sense, is being redefined . . . . States are now widely understood to be instruments at the service of their peoples, and not vice versa."[6] Because the international human rights program, when stripped of its own more recent mystical overlay, is based on the notion that, in a crunch, human beings and not states matter, the internal organization and modes of governance of each state must now meet certain prescribed international standards or, sovereignty notwithstanding, be subject to change.

Regime change is a more radical claim than "humanitarian intervention," which has lately acquired a degree of legal acceptance long denied it. Nevertheless, both claims resonate to some of the same policies. Humanitarian intervention is a short-term initiative, aimed only at stopping massive and ongoing human rights violations. Once the violations cease, it is no longer justified. In contrast, those responsible for a regime change may try to justify it by invoking past human rights violations, but it is, in fact, future-oriented—it is conducted to change the structure and/or personnel of a government.

II.

An antinomy is caused by two contradictory norms. A fundamental contradiction distinguishes the legal principles of state sovereignty and human rights. I believe that modern international law has resolved this antinomy in the following way: state sovereignty prevails in all but the most egregious instances of widespread human rights violations, in which case multilateral or, in extreme situations, unilateral action to secure an immediate remedy or even to change a regime—if need be, forcibly—may be taken. A review of practice shows that when the facts warrant it, the international community, including many of even the most legalistic lawyers, diplomats, and politicians, struggles with different rationalizations but generally concludes that the forcible action, though not always internationally authorized, was the right thing to do.

These contradictory principles do not produce a tidy jurisprudence—antinomies do not allow for that—but they have allowed international lawyers to distinguish between lawful and unlawful regime changes, as a few examples from recent memory will show. In 1968 the Security Council applied Chapter VII of the Charter against the white minority government of Rhodesia on the ground that it was a threat to the peace.[7] Internally, the regime of Ian Smith was certainly pathological, but hardly pathogenic, in the sense of threatening other states. With the blessing of the United Nations and the Organization of American States (OAS), the United States invaded Haiti to oust the military dictatorship and to reinstate the elected

[4] Prosecutor v. Taylor, No. SCSL-2003-01-I (Special Ct. Sierra Leone Mar. 7, 2003) (indictment), *available at* <http://www.sc-sl.org>.

[5] Prosecutor v. Milošević, No. IT-99-37 (Int'l Crim. Trib. Former Yugo. May 22, 1999) (indictment), *available at* <http://www.un.org/icty/>.

[6] Kofi A. Annan, *Two Concepts of Sovereignty*, ECONOMIST, Sept. 18, 1999, at 49, 49, *available at* <http://www.un.org/News/ossg/sg/stories/kaecon.htm>.

[7] SC Res. 253, UN SCOR, 23d Sess., Res. & Dec., at 5, UN Doc. S/INF/23/Rev.1 (1968).

government of Jean-Bertrand Aristide.[8] The Security Council characterized the regime of Gen. Raoul Cedras as a threat to the peace, but, though it was brutal, it posed no external threat. Nor did the government of elected President Aristide in the first of this year's internationally authorized regime changes. In contrast, the Taliban government, which was called a threat by the Security Council,[9] demonstrated rather vividly that it indeed was one. The regime change in Afghanistan, which seeks to replace the Taliban with the transitional government of President Hamid Karzai and a durable constitutional order, is still being played out.

Regime change has not been limited to United Nations initiatives. In the mid-1970s, concerns about Nicaragua dominated international legal discourse. The United States began to withdraw its support from the government of Gen. Anastasio Somoza Debayle in Nicaragua, against which ranged what appeared to be a broad-based and democratically inspired Sandinista National Liberation Front (FSLN). In 1977 the United States terminated military assistance and pressed other states, notably Israel and Guatemala, to stop supplying armaments to Somoza. The United States went further, initiating a resolution by the OAS calling for "the immediate and definitive replacement of the Somoza regime."[10] The OAS resolution was conditioned on agreement by the Sandinistas to support a democratic, pluralist, and nonaligned government. The FSLN cabled its agreement on July 12, 1979. It was the creation of a Marxist state by the Sandinistas, in violation of that commitment, that led the United States to support the contras in the long war that followed—a war that was terminated only when the Sandinistas, under international pressure, allowed free and internationally supervised elections and were voted out of office.

Some ten years later, the OAS ministers condemned the usurpation of an election in Panama by Gen. Manuel Antonio Noriega. Although the OAS General Assembly had urged "all the states to refrain from taking unilateral actions,"[11] the first Bush administration invaded Panama, put the recently elected government in place, and seized, tried, and convicted Noriega (who is now confined in a federal penitentiary).

During the same period, many other unilaterally accomplished and entirely unauthorized regime changes took place. The year 1979 alone witnessed four of them. Tanzania invaded Uganda and replaced the Idi Amin dictatorship with a government led by a former elected president. France invaded what was then known as the Central African Empire, imprisoned the self-styled emperor, Jean Bedel Bokassa, and put in power a former president of the country, David Dacko, who had conveniently been residing in Paris. Vietnam invaded Cambodia, expelled the Khmer Rouge government from Phnom Penh, and put Hun Sen in power. The Soviet Union invaded Afghanistan, overthrew and killed President Hafizullah Amin, made Babrak Karmal president, and subsequently replaced him with another puppet, Dr. Najibullah.[12]

None of the regime changes in 1979 had received prior international authorization. It is my impression that, with the exception of the Soviet invasion of Afghanistan, all of the unilateral regime changes met with approval from the international community.[13] Of the four, only the USSR remained substantially present in the country it had invaded. In the Security Council, the United States objected to the Hun Sen government in Phnom Penh, which seems ironic in light of the American role in Iraq. After reviewing the conflicting principles in the Charter, the American permanent representative said:

[8] SC Res. 940, UN SCOR, 49th Sess., Res. & Dec., at 51, UN Doc. S/INF/50 (1994).

[9] SC Res. 1378 (Nov. 14, 2001), 41 ILM 505 (2002).

[10] Res. II (June 23, 1979), adopted at the 17th Meeting of Consultation of Ministers of Foreign Affairs, OEA/Ser.F/II, doc. 40/79, rev.2.

[11] AG/RES. 990 (XIX–0/89) (Nov. 18, 1989), 1 OAS GA PROC., 19th Sess., at 35, OEA/Ser.P/XIX.0.2 (1989).

[12] *See* ANTHONY ARNOLD, AFGHANISTAN: THE SOVIET INVASION IN PERSPECTIVE (rev. ed. 1985).

[13] *See* GA Res. ES–6/2 (Jan. 14, 1980) (the General Assembly consistently condemned the Soviet invasion).

> [W]e must look at one essential, contemporary fact. The troops of one country are now occupying the territory of another and have imposed a new government upon it by force of arms. That fact leads us to the conclusion that the solution to the problem we are discussing is clear: Viet Nam must immediately withdraw its armed forces from Kampuchea . . . .[14]

Thereafter, the United States, in one of the more bizarre modern marriages of political convenience, steadfastly supported the Khmer Rouge government as the properly credentialed representative of Cambodia in the United Nations.[15] Most of the rest of the world seemed to think that, whatever the mix of Hanoi's motives in changing the regime in Phnom Penh, ending the nightmare of Khmer Rouge rule was meritorious.

In 1982 Israel invaded Lebanon and tried to put Bashir Gemayel in power. Within days, Gemayel was assassinated by a massive bomb and the Israeli plan fell apart. Although there was no indication that Israel planned a long-term occupation of Beirut, it seemed clear that Israel believed that a Gemayel government would be friendly and possibly dependent. The Israeli attempt at regime change was almost universally condemned.[16] These are only a few relatively recent examples of unilaterally imposed regime change.[17]

In some of these regime changes, efforts were taken—with varying degrees of conviction and success—to develop an international legal case. In others, the states involved cultivated an unshakable ignorance. In 1919, for example, as the Allied Powers sought to change the Bolshevik regime in Russia, Winston Churchill observed sarcastically:

> Were they at war with Soviet Russia? Certainly not; but they shot Soviet Russians at sight. They stood as invaders on Russian soil. They armed the enemies of the Soviet Government. They blockaded its ports, and sunk its battleships. They earnestly desired and schemed its downfall. But war—shocking! Interference—shame![18]

In still other regime changes, the actors seemed to be following the lapidary advice of Philander Knox, attorney general to President Theodore Roosevelt. When Roosevelt wondered whether a legal argument should be framed to justify the U.S. role in the secession of Panama from Colombia (a major and internationally controversial regime change of the time) and the Canal Treaty that was promptly concluded with it, Knox responded, "Oh, Mr. President,. . . do not let so great an achievement suffer from any taint of legality."[19]

The recent action in Iraq, of course, was the Mother of All Regime Changes. The justifications that have been invoked for the intervention have ranged from noncompliance with UN Chapter VII resolutions, through preemptive self-defense against existing weapons of mass destruction (or, latterly, the intention and ability to assemble and use them), through its being an integral part of the war against terrorism, and, belatedly, to relieving the Iraqi people of vast and continuing human rights violations. To a large extent, arguments about this kaleidoscope of reasons have been eclipsed by the exigencies of implementing the regime change itself. On September 23, 2003, Secretary-General Annan, whose lack of sympathy for the American initiative had been manifest, said to the UN General Assembly, "Whatever view each of us may take of the events of recent months, it is vital to all of us that the outcome is a stable

[14] UN SCOR, 34th Sess., 2110th mtg. at 7, UN Doc. S/PV.2110 (1979).

[15] *See generally* 1979 UN Y.B. 271–95, UN Sales No. E.82.I.1.

[16] 1982 UN Y.B. 428–32, UN Sales No. E.85.I.1.

[17] I am not analyzing Cold War regime changes, like the Kennedy administration's abortive invasion of Cuba in 1961, which sought to replace the Castro government; or the Johnson administration's invasion of the Dominican Republic to reverse a popular coup and install a government led by its perennial president, Joaquín Balaguer; or the Reagan administration's invasion of Grenada to suppress a coup that was accomplished by murdering an elected leader; or the Soviet Union's various regime changes in Central Europe; or China's in Tibet. It is impossible to extract many of these incidents from the distortions that the Cold War inflicted on international law.

[18] WINSTON S. CHURCHILL, THE AFTERMATH 243 (1929).

[19] TYLER DENNETT, JOHN HAY: FROM POETRY TO POLITICS 381 (1933) (quoting LYMAN ABBOTT, REMINISCENCES 139–40 (1915)).

and democratic Iraq—at peace with itself and with its neighbours, and contributing to stability in the region."[20] The ultimate outcome of the events in Iraq will affect attitudes to future regime changes and much more in international law.

III.

Some international lawyers who give pride of place to state sovereignty have consistently condemned all regime changes; international lawyers who give pride of place to human rights have been more selective in their condemnation, as well as their approbation. The international community, by which I mean the broadest range of official and unofficial international and national decision makers, whose expectations and demands are a critical part of modern international law, has taken a nuanced view of each case based on a range of critical international legal policies, including human rights, and local and regional stability. The lawfulness of each instance of regime change was appraised in terms of its accomplishment of those policies. I suggest that the most important criteria of this appraisal were (1) that the existing government (the target of regime change) was, cultural differences notwithstanding, widely condemned as pathological, if not pathogenic; (2) that the intervening state did not plan to use the change of government it was effecting as a means of permanently increasing its influence within that state and its region; (3) that the change was feasible; (4) that the change could be accomplished within a reasonable amount of time; and (5) that, over the long term, the quality of internal order was likely to be improved after the regime change.

None of the regime changes scored well on all of these criteria, but those that seemed to have been deemed lawful scored high on the first, second, and third factors listed above. None of the changes proved dazzlingly successful, in the sense of establishing a reasonable and decent internal system of public order. Indeed, some of the states descended into prolonged chaos. But, like the expulsion of the Khmer Rouge from power, many of the regime changes, for all their faults, were preferred by key members of the local population to the government that had been replaced.

IV.

The human rights instruments provide a template of domestic governance, which, alas, is not achieved in many states. The constitutive question is, Who should decide on and implement that template? In systems of human indignity, most would agree that human rights transformations are best accomplished autochthonously, without external intervention and especially without unilateral intervention. If there must be intervention, it should be persuasive rather than coercive, indirect rather than direct, and inclusively authorized and accomplished rather than exclusively and unilaterally effected.

In 1995, in the Supplement to the *Agenda for Peace*, then Secretary-General Boutros Boutros-Ghali observed:

> One of the achievements of the Charter of the United Nations was to empower the Organization to take enforcement action against those responsible for threats to the peace, breaches of the peace or acts of aggression. However, neither the Security Council nor the Secretary-General at present has the capacity to deploy, direct, command and control operations for this purpose, except perhaps on a very limited scale.[21]

[20] Kofi Annan, Address to the General Assembly of the United Nations (Sept. 23, 2003), *available at* <http://www.fcnl.org/issues/item.php?item_id=494&issue_id=35>.

[21] Supplement to an Agenda for Peace, UN Doc. A/50/60–S/1995/1, para. 77, *available at* <http://www.un.org/documents/secretariat.htm>.

After reviewing the modalities available to the United Nations—"preventive diplomacy and peacemaking; peace-keeping; peace-building; disarmament; sanctions; and peace enforcement"—Boutros-Ghali went on to say that "[t]he United Nations does not have or claim a monopoly of any of these instruments. All can be, and most of them have been, employed by regional organizations, by ad hoc groups of States or by individual States . . . ."[22]

The *Agenda for Peace*, which was crafted at a moment of international optimism, was striking for its acknowledgment of this political reality. In the best of all possible worlds, the optimal way of using the military instrument in defense of the values of world order is through authorization by the Security Council, acting in conformity with the procedures of the UN Charter and with broad political support in the General Assembly. Who better than a UN secretary-general would know that we do not inhabit the best of all possible worlds? The values of international law and of the Charter itself cannot always be achieved through the Security Council and Charter procedures. Thus, Annan, in the context of NATO's internationally unauthorized bombardment of Serbia, observed that it was "tragic . . . , but there are times when the use of force may be legitimate in the pursuit of peace."[23] Two days later, the secretary-general said:

> To those for whom the greatest threat to the future of international order is the use of force in the absence of a Security Council mandate, one might ask—not in the context of Kosovo—but in the context of Rwanda: If, in those dark days and hours leading up to the genocide, a coalition of States had been prepared to act in defence of the Tutsi population, but did not receive prompt Council authorization, should such a coalition have stood aside and allowed the horror to unfold?[24]

I would think that anyone who cares deeply about the protection of human rights would want to preserve the strategy of unilateral regime change as an extraordinary remedy in the "dark days and hours" when the formal international system cannot operate in time—or cannot operate.

V.

Ironically, just as international law had uneasily begun to accommodate itself to regime change as an exceptional lawful remedy, successful regime changes, whether nationally or internationally initiated and supervised, have come to seem less and less feasible. The reasons for this development relate to fundamental and mutually stimulating changes in the technology of weapons, their proliferation, the asymmetry of adversaries, and the decay of much of the law of armed conflict. The current situation in Iraq is instructive but hardly unique.

In environments as different as Peru, during the Shining Path insurrection, and Sri Lanka, during the continuing insurrection of Tamil Eelam, it has become painfully clear that a relatively small, but highly organized, force is capable of paralyzing a very large country. Shining Path never numbered more than twelve thousand people in a country of more than twenty-five million; Tamil Eelam counted less than twenty thousand members in a country of nineteen million. In both cases, a coherent counterideology, intense discipline, ruthlessness in the selection of targets and the execution of operations, and the inculcation of an ethos of self-sacrifice were sufficient to counter the forces of a much larger body politic. This modus operandi has been tested under fire, and it works.

Faced with an adversary using this MO, the targeted government or its allies may often find a forceful response counterproductive, for it can drive more of the general population

[22] *Id.*, paras. 23, 24.

[23] Secretary-General's Statement on NATO Military Action Against Yugoslavia, UN Press Release SG/SM/6938 (Mar. 24, 1999), *available in* LEXIS, News Library, Wire Service File (Mar. 25, 1999).

[24] Secretary-General Presents His Annual Report to General Assembly, UN Press Release SG/SM/7136, GA/9596 (Sept. 20, 1999).

to the other side. A more discriminating response, which, in the circumstances of these types of internal conflicts, cannot avert collateral damage, is sure to be decried by those parts of the international human rights community that focus on human rights deprivations by governments rather than human rights deprivations per se. Shining Path was neutralized, at least temporarily, by the fortuitous apprehension of its leader, Abimael Guzmán. Tamil Eelam is still effective.

The Iraqi imbroglio demonstrates that precisely the same strategy can be mounted against a regime change. It is tempting to believe that had the United States action against Iraq been international rather than effectively unilateral, and blessed or even directed by the United Nations, the outcome would have been different. I wish it had been truly international, but I doubt that the result would have been different. Even with a much broader "coalition of the willing" and a minimal or merely supportive military contribution by the United States, there is no reason to assume that those in or entering Iraq who are opposed to the regime change, this mysterious "countercoalition of the willing," would be acting otherwise than they are now. The brutal destruction of UN headquarters in Baghdad on August 19, 2003, demonstrates with hideous vividness (as those who have carefully studied UN peacekeeping operations knew) that the symbol of the United Nations is not necessarily seen as positive or effective by all local groups and factions in this type of conflict. The blue helmet, by itself, provides no protection against individuals and groups who calculate that a UN action is going to oust them from, or severely reduce, their power.

In a technological and science-based civilization, modes of warfare evolve as each side looks for an edge. One's own advances are called military evolution; those of one's adversary, asymmetrical warfare. The asymmetrical development exemplified by the Iraqi strategy teaches a lesson about military power in the modern world that the United States (and, for that matter, Russia in Chechnya) has resisted accepting and that has broad implications for all efforts at regime change. The enormous American military power translates into what has been aptly called "fate control" but not "behavior control"—the United States has the ability to obliterate an adversary, as a theoretical if not a practical matter, but it effectively lacks the ability to control the adversary's behavior. It is certain that the United States could completely destroy Iraq in a few hours. It is not certain that it could, at a nationally or internationally acceptable price, control Iraq's behavior.

These developments bear long-term implications for regime change, not to speak of other forms of international peacekeeping and peace enforcement. Regime change requires regime changers, for which service fewer and fewer may volunteer. Even if a satisfactory solution is ultimately reached in Iraq, the United States, for one, will not soon engage directly in elective rather than self-defensive regime change. The American public will be ill-disposed to support it; the persistence of popular support now apparently derives from the perception that the action is related to self-defense and not to regime change per se. Moreover, the United States may not be able to maintain a sufficiently large and effective volunteer and reserve force if prospective volunteers believe that their mission no longer is defense of the nation but the grueling task of changing regimes in other states.

VI.

When the moral case is strong and regime change appears lawful and feasible, is a military action to accomplish it wise? Is it the right thing to do? In most cases, I would suggest, it is not, for diverse moral and political reasons. Let me review them briefly.

1. It is easy to conclude that a regime is wicked and violent. It is difficult and indeed culturally arrogant to determine what sort of contextually workable regime should replace it. But once a regime has been ejected and the territory controlled, the regime changers cannot say "mission accomplished" and fly off. They must supervise a transformation. Their own

model may not fit the local political culture or cultures. Leon Trotsky, the first commissar for foreign affairs after the Bolshevik Revolution, believed that, inspired by a few proclamations, all peoples would overthrow their rulers and establish communist governments. We now hear a type of democratic Trotskyism that, *mutatis mutandis*, assumes the same. Both of these theories ignore the persistent force of nationalism, culture, religion, language, and other powerful—and manipulable—focuses of identity.

The great human rights instruments, of course, establish an international standard of governance. In practice, however, the standard is expressed in very general principles and norms and the "margin of appreciation" can be quite elastic. In theory, a plebiscite is the most reliable method of testing what a given group wants, but elections presuppose a minimum of internal and external agreement about what the elections are to decide. As for "governments of national unity," they are a euphemism for dividing the spoils among the strong and not among the deserving or virtuous and may change nothing in the regime but its personnel and vocabulary.

2. The United States has continuous global interests and responsibilities. For all its overwhelming power relative to that of other states, the United States has never had enough military and political resources for all its interests and responsibilities if all or most suddenly required external action. In this respect, the United States is like a bank with vast but, relative to claims, always limited reserves. Reserves are always in danger of being overdrawn if called at once. A bank, no matter how great its reserves, avoids a run by projecting an image of solvency because it knows that the moment that image is undermined, everyone will hurry to draw down his account. Regime changes are calls on military assets, calls whose limits are difficult to gauge.

3. The process of regime change may put great strain on the economic resources of the changer and its national economy. And the longer and more widespread the economic strain, the more tenuous the domestic support for regime change becomes.

4. In liberal societies, all mobilizations for coercive action result ineluctably in a constriction of civil liberties at home. The constriction increases in direct proportion to the length of the action and, independently, the extent to which the adversary is able, credibly, to bring the threat of violence home.

5. Regime changes are likely to take a great deal of time, but tolerance for the changer is limited. An outsider is always an outsider. An army of liberation becomes an army of occupation the moment it wins. As an army of occupation, it encounters more and more resistance the longer it stays.

6. A coordinate principle operates with respect to the regime changer. Because of the predominant power it enjoys, the United States seems to be the ultimate regime changer. But, for all of its power, it does not have an aptitude for extended direct control over reluctant states. In no instance has public support for an occupation that started out with good intentions, whether in the Philippines, Haiti (on more than one occasion), or Nicaragua, been sustained. Yet regime changes are not likely to be short-lived, for the regime that is targeted for change has usually spoliated the political and economic system of the state it controlled, leaving it in shambles.

7. The new MO of resistance is likely to drain the regime changer and frustrate its intentions, leading to greater and greater violence, more and more alienation of the local population, and ever stronger resistance to the putative regime changer.

The conditions for successful regime change are difficult to meet, all the more so because the governments of democratic political systems, whose militaries will be required for regime changes, will have to present their participation in the action to their constituents as in the national interest or in self-defense. "[I]t is an arduous undertaking," Tocqueville wrote, "to excite the enthusiasm of a democratic nation for any theory which does not have a visible,

direct, and immediate bearing on the occupations of their daily lives."[25] But arguing national interest as the justification for sacrifice will run against demonstrating to outsiders that national interest plays no part in the action. Moreover, the prospect of long-term occupations over increasingly restive populations in which the methods of adversaries will be characterized as terrorist, but will be seen by them and their supporters as simply intelligent, asymmetric warfare, and will prompt military and paramilitary efforts by the regime changers that will be subjected to intense scrutiny by international criminal courts and nongovernmental custodians of human rights—this prospect will lead many democratic governments to think twice before getting involved.

VII.

The title of this lecture is "Why Regime Change Is (Almost Always) a Bad Idea." I would like to turn now to the parenthetical "almost always." There will be times—"dark days and hours," to quote Annan again—when an individual state should undertake to use force to change the regime of another state, because the regime is both hideous and dangerous, both pathological and pathogenic, and because the formal decision structures of the international legal system prove inoperable.[26]

If a state must engage in regime change, I propose ten guidelines for success that may be deduced from earlier and current cases.

1. As much international organizational support should be gained as possible.
2. If a regime change is not formally authorized by the United Nations, there should be significant foreign support (especially in the states contributing forces) for the change.
3. There should be significant domestic and internal support for the regime change in both the would-be changer and the targeted state.
4. The individual or elite group that is the target of regime change should not have an effective internal base of support.
5. An acceptable alternative government should be readily available, one that promises to be effective, so that, ideally, all that would be involved is regime *change* and not regime reconstruction or nation building.
6. The occupation by an outside force should be short.
7. The costs to the outside force should be minimal.
8. The force accomplishing the regime change should not be believed, by those within the country or outside it, to have a parochial interest in securing the change.
9. The earlier recommendation notwithstanding, where nation building is an inevitable part of the regime change, the United Nations should be responsible or prominently involved, as in Namibia, East Timor, and Kosovo. The UN commitment should be secured before the regime change.
10. Do not forget Murphy's Law: Have an exit strategy. As in all elective uses of force, the Powell doctrine should apply.[27]

I have tried to sever regime change from nation building. Obviously, it would be best to oust a vicious government and transform the system of governance into something approximating an international standard. But, as the French say, the best is the enemy of the good. Aside from the fact that externally designed and managed nation building, even under the auspices

[25] ALEXIS DE TOCQUEVILLE, DEMOCRACY IN AMERICA 642 (J. P. Mayer ed., George Lawrence trans., Perennial Classics 2000) (1835, 1840).

[26] The reasons necessitating such action may include massive AIDS epidemics that cause the breakdown of internal order, posing external threats as well as internal human rights crises.

[27] Colin L. Powell, *U.S. Forces: Challenges Ahead*, FOREIGN AFF., Winter 1992, at 32, *excerpts available at* <http://www.pbs.org/wgbh/pages/frontline/shows/military/force/powell.html>.

of the United Nations, can easily become an arrogant usurpation of the right of self-determination, it is an enormously difficult, costly, and long-term process. Regime change, when it is necessary, should, if at all possible, be focused narrowly on regime change alone.

Regime changes will be most difficult when there is no likely successor and no coherent internal political process that can produce an effective and acceptable candidate and when, as a result, the occupation will be extended and expensive. Thus, some situations may call for other strategies. If alternative strategies are available, coercive regime change should be essayed only when it promises to be successful, for the stabilizing use of military force in international politics is essentially one of expectations which are based on reserves that are always overdrawn.

VIII.

Regime change may seem necessary even when the conditions are not propitious, the costs are unknowable but likely to be high, and durable international support is uncertain. But that will not always be the case. Hence, in each context, let the strongest and best-intentioned government contemplating or being pressed to undertake regime change remember that not everything noble is lawful; not everything noble and lawful is feasible; and not everything noble, lawful, and feasible is wise.