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Defence Alliances – A Future Necessity

by Hans Corell

Lately, the defence debate has suddenly taken off. The reason is of course the tragic development in the eastern part of our region. One example is the article by the four leaders of the Alliance in the Dagens Nyheter on 22 April 2014.¹ In that context, the issue of a Swedish NATO accession has also arisen. As is clear from the report of the Defence Commission, *The Defence of Sweden – A Stronger Defence for An Uncertain Time* (Ds 2014: 20), there are widely differing opinions among the political parties in the Riksdag (The Swedish Parliament).

During my years in the courts and in the government offices, 1962-1994 and thus mostly during the Cold War, I followed the defence issue with great interest. Later, during my ten years in the United Nations and then elsewhere, I lost touch with the issue until, through the debate on the "one week defence", it became clear to me how bad things were. This made me deeply worried.

Not least the recent events in Europe demonstrate how important it is that a country has a strong defence. But the defence debate must be conducted in a much broader and longer-term perspective than that which apparently occurred in our country after the end of the Cold War.

In the following, I will in a few short sections explain how I view this question in the light of my experiences from my years in the courts, in the government offices, in the United Nations and then in the international arena, including as legal adviser for six years to Kofi Annan in his capacity as Chairman of the Panel of Eminent African Personalities mandated by the African Union to assist in restoring order in Kenya after the violence in connection with the 2007 elections in the country.

¹ The Dagens Nyheter is the leading Swedish daily newspaper. In the following, three footnotes with references to articles in Swedish media are not included. These references can be found in the Swedish original, available at <http://www.havc.se/res/SelectedMaterial/20141113forsvarsallianser1.pdf>.

EXPERIENCES FROM THE LAST CENTURY

Recent events point to a dilemma that humanity is constantly wrestling with: the difficulty of transferring wisdom from one generation to another. I usually illustrate the problem with the final chorus in Sophocles' tragedy *Antigone*, which was written more than 2500 years ago. In English translation from the Greek it reads:

Wisdom is the supreme part of happiness; and reverence towards the gods must be inviolate. Great words of prideful men are ever punished with great blows, and, in old age, teach the chastened to be wise.

The question we should ask ourselves today is: Where did the lessons from the two world wars during the last century go? I am very critical of the behaviour of the Western powers when the Berlin Wall came down in 1989 and the Cold War came to an end. They had apparently completely forgotten the lessons of the two world wars. The Peace of Versailles was a disaster in many ways. One conclusion is that it humiliated Germany in a manner that actually paved the way for Adolf Hitler.

During World War II the Allies, especially the US, realised that it was necessary to create partners of the former enemies and acted accordingly. One result is that, today, Germany is a leading actor in Europe and a member of the Council of Europe, NATO, the EU and the OSCE.

So, what happened when the Berlin Wall came down? Did the Western powers engage with sufficient seriousness in their dealings with Moscow? Did they travel to Moscow with the message that the West and Russia have an undeniable and comprehensive common interest: not to become engaged in armed conflict with each other? They did not with sufficient efficiency and perseverance! Instead, Western countries began going it alone. And the United States was soon preparing to set up rocket ramps in Poland and the Czech Republic, as if they had never heard of the Cuban missile crisis in the early 1960s. The United States and the Soviet Union could then have become engaged in a war, had not President Kennedy handled the situation as sensibly as he did.

The obvious lesson of the past century must be: After a war – even a cold war – never humiliate your former enemy! I do not for a moment suggest that this is an excuse for President Putin's behaviour towards Ukraine. But if the Western countries had engaged with enough interest and energy in Russia from the outset after the end of the Cold War, maybe the country today had been on a steady

course towards real democracy and the rule of law. The unpredictable 19th century mentality that we have witnessed in recent times must necessarily have consequences for the actions of states and, not least, for Sweden's defence policy, which the Defence Commission also notes.

PRECONDITIONS FOR INTERNATIONAL PEACE AND SECURITY

A fundamental element in a security policy analysis is to what extent democracy and the rule of law, including the protection of human rights, are respected – not only in one's own country and in neighbouring countries but in all countries of the world.

Over the years, democratic governance has come to be applied in more and more countries. But it will take a long time before this system is instituted in the entire world community. And the system is far from perfect. There are great challenges, especially in countries where there is internal conflict, often in combination with corruption and high poverty. But, unfortunately, there are major deficiencies also in developed countries. A particular dilemma is that, in practice, democracy does not guarantee that statesmen and women come to power.

In this context it should be added that excuses like "democracy is a Western invention" must be firmly rejected. In a geopolitical perspective it is absolutely necessary that an overall effort is made to spread democracy in order to attain peace and security. This insight has also reached the UN General Assembly. The following lines from the Declaration of the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels, adopted on 24 September 2012, may be quoted here:

5. We reaffirm that human rights, the rule of law and democracy are interlinked and mutually reinforcing and that they belong to the universal and indivisible core values and principles of the United Nations.²

Against this background, the need for democracy in the world community cannot be questioned. States that fall short here deserve to be criticized. But they should also be given legal technical assistance to start a process that by definition takes a very long time.

² See resolution A/RES/67/1 available at http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/67/1.

Closely related to democracy is then the rule of law, which is an additional condition for legitimate and lawful governance both at the national and the international level. With respect to what is meant by the rule of law at the national level, to put it simply, this can be explained in these four points:

- Democracy.
- Proper legislation that respects international rules, in particular the rules on human rights.
- The institutions, including independent and impartial courts that apply this law correctly.
- Persons with the integrity and the knowledge required to administer these institutions.

If we look to the national level, what is required is in summary that all citizens have a general understanding of the rule of law and its role in modern society. Therefore, it is extremely important that teaching of this subject is given in school as early as possible – a major challenge for the future. It is also important to keep in mind that the question of the rule of law is not just a legal issue. It is much more extensive. It includes ethical elements that must be supported by all. And the support must come from the grassroots level.³

Finally, let me suggest a persuasive argument for the reasoning presented here. If you analyse the conflicts in the world, you come to the conclusion that the root causes are the same: democracy and the rule of law are absent.

THE UN SECURITY COUNCIL

In a defense policy analysis one must also include the United Nations and especially the UN Security Council. Under Article 24 of the UN Charter, the members of the Organization have entrusted the Council with the primary responsibility for the maintenance of international peace and security. The Council has the authority to act on behalf of all members in the fulfilment of the obligations that follow from this responsibility.

Against this background, it is imperative that the United Nations through the Security Council meets its obligations under the UN Charter. A first precondition is that the members of the Council themselves respect international law and in particular the UN Charter and the fundamental rules on human rights

³ Here, reference can be made to *Rule of Law – A guide for politicians*. A Guide elaborated under the auspices of the Raoul Wallenberg Institute of Human Rights and Humanitarian Law at Lund University, Sweden, and the Hague Institute for the Internationalisation of Law (HiiL), the Netherlands. The Guide is available in several languages at <http://rwi.lu.se/what-we-do/academic-activities/pub/rule-of-law-a-guide-for-politicians/>.

both when they act in the Council and in general when they act at the international or national level. They simply have to set a good example by observing the rule of law and in particular by respecting the law that they are set to supervise: the UN Charter!

The members of the Council and in particular the five permanent members, all vested with veto power, must be able to interact when the Council is faced with situations that threaten international peace and security. The failure by the Council to effectively deal with situations like the one in Syria is a tragedy. And by showing that they cannot join hands in such situations, they are actually fuelling conflicts rather than preventing them through effective measures when such are needed. To someone who has followed the work of the Security Council for many years, it is strange to have to conclude that its members do not realise what a formidable potential the Council represents if its members demonstrated greater statesmanship.

Even more damage to the UN system of collective security is done when even the permanent members of the Council violate the UN Charter, as happened in Iraq in 2003, in Georgia in 2008 and now most recently in Ukraine.

With respect to Ukraine, there is no doubt that Russia has special interests in Crimea – not least because of the fact that the Russian Black Sea Fleet is based there. But surely the situation regarding Crimea could have been resolved in a satisfactory manner if enough statesmanship had been demonstrated in Moscow, in Kiev and in the West. Instead, we now have a situation where one of the permanent members of the Security Council through an erratic leadership poses a threat to its neighbours, while at the same time this member undermines the legitimacy and authority of the Security Council.

Another effect is that the issue of nuclear disarmament certainly has stalled for the foreseeable future. The risk of a nuclear war must not be underestimated. And in such an event we are certainly all losers – and lost.

ALL STATES MUST HAVE DEFENCE FORCES

The foregoing presentation demonstrates that we live in a world with great uncertainties. The veneer of civilization is thin. And, just as this is written, the conflict between Israel and Palestine has flared up again. In my opinion, the UN Security Council should already after the conflict in 2009 have referred the situation in the Middle East to the International Criminal Court. This would have entailed that the Prosecutor had opened an investigation of the behavior on both sides in the conflict. Because of the Council's inability to act we are now in

a situation that probably may be regarded as more serious than the one that existed five years ago.

Recent events clearly demonstrate that our country must have a strong defence. To allow ourselves to be lulled into a false sense of security based on short-term analyses of the situation in other countries, especially in the neighbourhood, is simply not acceptable. The purpose of the analyses made by the Defense Commission is, of course, to remedy this.

The main thrust of the defence must be the defence of the country – and all of the country. This must also apply to the island of Gotland. I say this not just because I completed a short period of my military service there, but because of the fact that the island with its strategic location in the Baltic Sea is a very important part of our territory. Naturally, Sweden should also participate in international peace operations under the auspices of the UN or sanctioned by the UN. But this must not be the main focus.

Nor am I convinced that it was wise to abolish conscription. Of course, conditions are different today as compared to the situation during the days of the Cold War. At the same time it should be kept in mind that the military service was of great importance for our country – not only in military terms but also as a factor that contributed to creating, through equal treatment, legitimacy and togetherness and to teaching conscripts to cooperate and show consideration for others. In my opinion, those responsible should reconsider the situation to see if the decision was well-founded.

I do think that most of us can agree that our country should have a strong defence, all things considered. What one then has in mind is of course the threat of an external enemy – another country.

At the same time, we must note that there are many who would rather like to see complete disarmament in the world. As a lawyer, I do not for a moment believe that this is possible. Disarmament of weapons of mass destruction including nuclear weapons is something that obviously must be pursued – this is a separate matter. A general disarmament is not possible for the simple reason that a regular defense is necessary not only against external threats, but also for a country's internal security.

An important task for every country in the community of states is to maintain order in its own territory. If a state is unable do this, there is a great risk that its territory becomes a platform for all kinds of illegalities. It may involve assaults by fundamentalist groups, particularly religious extremists who threaten not only their own country but also other countries in the region. But it can also involve

downright criminal elements that note that the absence of a military defense constitutes a vacuum that they can use for their own activities, not least in the form of transnational criminality.

I had a particular reason to think about this problem when the UN administered Kosovo and East Timor. In both situations the United Nations was responsible for the exercise of authority in the provinces and for the maintenance of law and order in these. Here it turned out that it was very difficult to establish a functioning power and authority. Recruitment of police officers, prosecutors and judges is not made in an instant. The vacuum that was created was quickly filled by, precisely, criminal elements. In such situations there is no other way but to turn to the military to avoid sheer anarchy. The term *failed state* comes to mind.

I am fully aware that in Sweden it is almost taboo to reason in these terms – this because of the tragic events in Ådalen in 1931, when the military was deployed against workers exercising their right to demonstrate. But it is nothing of this sort that is contemplated here. The thoughts here are based on the experience that I just referred to and the conclusions that I have drawn after contacts with people around the world who have participated in peace operations where they were forced to maintain law and order under very difficult conditions. Here, I can also refer to section 14 of the Defence Commission's report.

One should also keep in mind that in all societies there are, has been and will always be individuals who are predisposed to violating the existing law. It is therefore important to maintain a level of preparedness to ensure that their activities are prevented or limited as much as possible. In today's world this is particularly important, not least because of the many technical systems that are used, and that are extraordinarily vulnerable. In some cases, these systems can also be exploited by criminal elements in an increasing transnational criminality. This is also noted by the Defence Commission.

This has led me to the conclusion that within the state community there should in fact be a common interest that every country has a reasonable armament that means that other countries can be confident that order can be maintained there. Police must of course be present with the legal authority to use force to maintain law and order – that is a given. But if the situation becomes so serious that anarchy threatens, one must resort to other means. The point of departure must be that the main objective of the armed forces seen in this perspective shall be preventive – that criminals realise that there is no vacuum.

But there is also a lingering threat generated by states that have not yet reached the point where democracy and the rule of law are established. If they fall out of the frame in such a manner that they threaten international peace and security,

the state community must take action, if necessary by armed force in accordance with a decision by the Security Council or in self-defense. The same applies if the international community's responsibility to protect is engaged. In this situation, sufficient military resources must be put at the disposal of the UN.

In summary one can see that the defence policy should focus on states having a strong defence, that they must act to establish trust among themselves and that there is transparency in the armament in a situation where friendly relations are hopefully developed increasingly. They will then realise that they will always have a mutual interest in maintaining a strong defense to protect themselves against a common "enemy" – the one that is made up of criminal elements.

DEFENCE ALLIANCES NECESSARY IN THE FUTURE

I now come to the last section which contains my main thesis, namely that defense alliances are a necessary solution in the future.

Here, one must initially put the question in what manner we want the world to be governed in the future. This question has preoccupied thinkers and philosophers for centuries.⁴ This is not the place to go into detail on this question. Let me just briefly say that I do not for a moment believe in a world government or a world parliament with legislative power. We must be realistic and realise that within a foreseeable future there is no alternative to the sovereign nation-states that can interact in the UN and other international organizations. Another fact is that the states' freedom of action will become increasingly limited, not least as a result of international agreements that must be concluded so that the states will be able to resolve issues where joint action is a necessity.

So what we must hope for is that all these states are able to develop systems based on good neighbourliness and that friendly relations can be translated into military defense alliances that can gradually adapt to the prevailing situation. As has just been said, the hope must be that the defence in the long run can be concentrated on the "enemy" that will always be, namely the criminal elements.

But if democracy and the rule of law are spread, it will simultaneously become more difficult for governments and parliaments to gain public support for large defense budgets. Who is the enemy? Against whom are we defending ourselves? In such a situation it is natural that the size of the defense budget will be a hot

⁴ A brief literature review is available on the website of the Global Challenge Foundation. See page 36 at <http://globalchallenges.org/wp-content/uploads/survey-of-proposals-and-ideas-on-global-governance1.pdf>.

issue in the defence policy debate. We recognise the debate in our own country, where the defence was even described as a "separate interest".

In that situation, there is in reality probably no other option than for countries, especially small countries, to come together in defense alliances. How these should be composed depends, of course, on both the geographical and geopolitical situation. However, in this way it would be possible to create, without burdening national budgets too much, powerful common units that may be employed when necessary.

In particular, by its very existence a defense alliance should be able to create a societal climate that promotes national security. It goes without saying that such alliances should have a close and trustful cooperation with other defense alliances created for the same purpose. Openness and transparency should prevail here. An idealistic picture perhaps. But one has to establish a long-term goal that hopefully more and more can join.

At the same time we must be realistic. The road to this world order is long, and serious disruptions could occur if states do not effectively handle the major imminent challenges: the population issue, poverty, climate, diseases, terrorism, transnational crime, corruption etc. Another imperative is the need for empowerment of women in all countries.

This brings us to the main question in this volume, namely whether Sweden should join NATO.

In January 2009, I had a debate in the Swedish newspaper Svenska Dagbladet with Anders Ferm and Thage G. Peterson who in the month before had claimed that Sweden was the victim of a "furtive accession" to NATO. In the debate, I was able to demonstrate that the operations they referred to in their argumentation were in fact sanctioned by the UN. But their article made me think about a Swedish NATO accession. I then came to the conclusion that our traditional policy of neutrality had outlived its usefulness and that a Swedish NATO membership could be the right way, especially against the background of my view that small countries must eventually be part of defence alliances.

At the same time, I was certainly aware that the issue is very complicated, not least because some NATO members engage in activities that are in clear violation of international law. Examples include the detention of terrorist suspects without trial and judgment and interrogation methods that must be described as torture. The use of drones for so-called *targeted killings* is another problem.

However, to complete the reasoning, if five, six years ago Sweden had made the move and requested membership in NATO it may not have attracted too much attention. Today, the situation is different. Personally, I would therefore not now express any definite view with respect to this issue; it requires a careful analysis that cannot be made until the situation in Ukraine has found its solution. But what is said about the cooperation with NATO and the US in the report by the Defence Commission (Ds 2014:20) is actually equally good arguments for a Swedish NATO accession. A moral question also arises, namely what demands solidarity with like-minded impose on our country. Another important element in the Swedish analysis must be the attitude to the corresponding question in Finland.

But let us for the sake of argument suppose that NATO had not existed today. Had it not been quite natural that a defence alliance had been created in Europe, perhaps also with the support of North America, in which Sweden had been an obvious member together with the other Nordic countries? As the Defence Commission concludes: most European countries have limited resources to independently develop and acquire necessary military capabilities.