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Grenada Again: Living Within the Law

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In the dozen years since The Wall Street Journal nobly opened its pages to periodic heresies by me, nothing I have written has brought down on my head such a torrent of fulmination and abuse as a recent column questioning the virtue of the sneak American military attack on Grenada. I have been vilified in unprintable language, instructed to go back to where I came from (Columbus, Ohio, actually) and denounced as an agent of the Kremlin.

At the risk of provoking the customers still more, let me try again; for I think an important point is involved for all who love America. So please, everybody, stay calm for a moment, and let us reason together on the question of the relationship between law and foreign policy.

Until recently, most Americans regarded the establishment of neutral standards of international behavior as vital to the interests of the U.S. International law is far from omnipotent. But it is far from negligible, too, and the steady extension of its reach is the necessary condition of lasting peace. It surely continues to be in our national interest to uphold the rule of due process in the world, however imperfect that rule may be. It is surely not in our national interest to set an example to the world of the subordination, when it may please us, of law to force.

Pearl Harbor

Six months before the U.S. launched its sneak military attack on Grenada, Sen. Daniel P. Moynihan observed in a speech at the National Humanities Center, "A measure of the current disorientation in American foreign policy derives from our having abandoned, for all practical purposes, the concept that international relations . . . can and should be governed by a regime of public international law." The New York Democrat cited his service on the Senate Select Committee on Intelligence, where CIA covert operations, in their nature violative of treaty law, were under constant review. "To my recollection," he said, "in six and more years of seemingly interminable closed hearings and briefings, I do not ever recall hearing a discussion of legal obligations of any kind." In abandoning a conception of world order that, if arguable, was none the less coherent. Mr. Moynihan concluded, the U.S. "has not replaced it with any other conception. No normative conception, that is. If we don't believe in law, then what do we believe in?"

This month marks the 42nd anniversary of Pearl Harbor. Why is Dec. 7, 1941, a date that will live in infamy? Because on that day the Japanese launched, without

warning, a sneak attack against the U.S. But at least Japan was picking on someone its own size. In Grenada we attacked, without warning, a hapless island of 110,000 people possessing neither army nor navy nor air force. Judging by the popular jubilation that followed this glorious victory, by the self-satisfaction of the administration and by the ignominious collapse—with a few brave exceptions like Pat Moynihan, Alan Cranston, George McGovern, Gary Hart—of the Democratic opposition, the invasion of Grenada is esteemed as one of the proud moments of American history. Are we to conclude that Pearl Harbors are

splendid when we are the perpetrators and wicked only when we are the victims?

The administration has submitted the need to rescue American citizens as the pretext in international law for its action. The protection of U.S. citizens would indeed be a legitimate reason for a rescue mission. But in this case the danger to American citizens was not in advance of the invasion, but in consequence of it.

President Reagan himself in his address to the nation confessed that the invaders "had little intelligence information about conditions on the island." In any case, rescue missions—there have been at least 80 of them in our history—never before required the invasion of a country, the overthrow of its government and the military occupation of its soil. Had the Soviet Union carried out a similar operation on the same pretext, no one would have been more rightly and righteously indignant over Soviet lawlessness than the current president of the U.S.

The legal fig leaves offered by the administration have been so perfunctory as to imply a conviction that law is irrelevant to the American conduct of the Cold War. The Grenada invasion provides the answer to the question with which Sen. Moynihan concluded his speech in April. The Reagan administration has replaced the concept of a regime of public international law with the concept of the U.S. as a law unto itself.

Worse, some of us rejoice in the very boldness of the U.S. in liberating itself from the shackles of legal procedure. Even this admirable newspaper declared that

the world's judgment of Grenada must not be confused by the scruples and technicalities of international lawyers.

Now it may well be that the assumption by the U.S. of a lawless role in international affairs will have in the short run an admonitory effect. H.R. Haldeman has

told us that President Nixon used to espouse what he called the "Madman Theory," according to which other countries, if they thought the U.S. was capable of anything, would be more likely to do what we wanted. Doubtless the Madman Theory can work for a while. It worked well enough for Hitler and Stalin. The invasion of

Grenada has very likely had a chastening effect on Nicaragua and Cuba. But is it really the example we wish to set for the world? Are Hitler and Stalin now to be American models? The Madman Theory is degrading and corrupting for us. It demeans and disgraces the nation of Washington and Lincoln. It can never form the basis for honorable and lasting peace.

There are moments in history when the law of self-preservation must override all other considerations, whether of international or domestic law. As Justice Arthur Goldberg once wrote in a Supreme Court decision, the Constitution is "not a suicide pact." But these moments are exceedingly rare. Soviet nuclear weapons in Cuba in 1962 represented an infinitely greater threat to the U.S. than anything that took place in Grenada, but the Kennedy administration rejected the idea of a sneak military attack. What might the outcome for world peace have been had the current crowd been in power in 1962?

No one in his senses can claim that the life of the U.S. was at stake in Grenada. What we end up with, rather, is the situation well described by Abraham Lincoln in 1848: "Allow the President to invade a neighboring nation, whenever he shall deem it necessary to repel an invasion . . . and you allow him to make war at pleasure. . . . If, today, he should choose to say he thinks it necessary to invade Canada, to prevent the British from invading us, how could you stop him? You may say to him, 'I see no probability of the British invading us' but he will say to you 'be silent; I see it, if you don't.'"

It is perhaps a measure of our decline as a democracy that we would no longer be much surprised if we picked up the newspaper tomorrow and read that President Reagan had invaded a new country—Nicaragua or Syria. For the Reagan Doctrine is dangerously elastic. Nearly every country in the world contains American citizens to be declared in potential danger. Nearly every country in the world can be defined as of strategic importance to American security—if not directly in itself, then indirectly through the convenient doctrine of "credibility," by which every local conflict is invested with global significance and be-

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