

## *Viewpoint*

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# U.S. Policy on Preventive War and Preemption

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It has already become a cliché to assert that 9/11 “changed everything.” But like many clichés, this one holds a grain of truth. The 9/11 terrorist attacks did transform the way many Americans think about U.S. foreign and defense policy, to say nothing about the likelihood and nature of war itself. Probably the greatest transformation took place in the minds of President George W. Bush and his closest advisors as the neo-isolationism they touted during the 2000 Presidential campaign was replaced by a surge of global military activism.<sup>2</sup> After vigorously criticizing the Clinton administration for its foreign policy of “engagement” and the commitment of U.S. military forces around the globe, the Bush administration has found itself adopting military commitments that were never even contemplated just a few years ago.

The explanation for this turnabout appears relatively straightforward. The searing experience of watching fanatics transform the New York City skyline created a lasting impression among U.S. leaders. They are now convinced that war is indeed a real possibility and that America’s enemies will stop at nothing to attack the

United States, its forces overseas, and its allies and friends. Against this backdrop, discussions of preventive war and preemption, which featured prominently in the January 2002 Nuclear Posture Review (NPR) and the September 2002 National Security Strategy, appear to be a rational response to the changed strategic circumstances that the United States now confronts.

Accordingly, conventional wisdom now holds that the Bush administration is adopting a doctrine of preventive war and preemption because it has learned that deterrence can fail with catastrophic consequences, and the price may be high if the United States allows enemies to strike first. But this view of the situation is too simplistic, because the administration’s new doctrine is largely designed for domestic consumption and is unlikely to be fully implemented because of various normative and practical constraints created by international institutions and politics. Indeed, the end result of the administration’s emphasis on preventive war and preemption, paradoxically, may be to strengthen deterrence and existing international institutions, two outcomes that are not necessarily high on the administration’s agenda.

The assumptions that drove U.S. foreign and defense policy for decades are now under review. While traditional threats stemming from great power conflict have faded, forces unleashed by interstate conflicts, communal and ethnic violence, and transnational terrorist organizations pose considerable danger. Where once the primary threat to the nation came from the Soviet nuclear arsenal, the Bush administration's National Security Strategy characterizes today's security challenges differently: "The gravest danger our Nation faces lies at the crossroads of radicalism and technology. Our enemies have openly declared that they are seeking weapons of mass destruction (WMD), and evidence indicates that they are doing so with determination."<sup>3</sup> For the Bush administration, the potential destructiveness of terrorist attacks is magnified by the possibility that radicals might somehow obtain nuclear, chemical, or biological weapons from regimes that are extremely unstable (such as North Korea) or implacably hostile (Iraq, for instance) to the United States.

The Bush administration has settled on a guide for using force that, according to critics, lies outside the scope of existing international law and the behavioral norms established by the United Nations (UN). With Iraq as the proximate target, administration officials have repeatedly stated that they are willing to use force to head off extremely dire threats before they emerge fully by using *preventive war* as a tool to manage an increasingly chaotic international environment. While understandable, the choice of terminology used by the administration to describe its policy is regrettable. Although it identifies a strategic option available to the United States, it mischaracterizes actual U.S. policy and today's threat environment. For their part, critics mistake means for ends and rhetoric for reality.

To separate reality from rhetoric in the current shift in the Bush administration's foreign and defense policies, this article will first explore the way the concepts of deterrence, preventive war, and preemption are presented in current U.S. policy documents and identify the reasons the administration is reshaping U.S. foreign and defense policy. It will then briefly describe the international legal framework governing the use of force to highlight the virtually insurmountable hurdles that would have to be overcome to justify a preventive war strategy. The article will then turn to a comparison of how strategic realities compare with the characterization of current policy advanced by both the administration and its critics.

## DETERRENCE, PREVENTIVE WAR, AND PREEMPTION

The concept of deterrence has been a cornerstone of U.S. national security strategy for the last fifty years. It is based on the idea that actors will not undertake some unwanted action if the costs of that action are greater than the gains. Threats of varying degrees of clarity and credibility are issued to alter a potential aggressor's cost-benefit calculation, thereby deterring the actor from behaving in an undesirable way. At the heart of deterrence is an assumption of rationality on the part of all concerned: Actors are assumed to be able to recognize deterrent threats and weigh with reasonable accuracy the potential costs and benefits of some course of action. The threat of inflicting punishing retaliation against some transgressor, not the ability to prevent some hostile act from occurring, lies at the core of deterrence theory. During the Cold War, for example, the U.S. nuclear arsenal could not prevent the Soviet Union from destroying the United States, but it could guarantee that any Soviet attack would at best produce a Pyrrhic victory following a U.S. nuclear second strike.

The Bush administration regards deterrence with ambivalence, an ambivalence that is reflected in the critique of deterrence theory developed by some of its leading strategists and articulated in administration documents issued before 9/11.<sup>4</sup> On the one hand, Bush administration policy documents highlight the important role deterrent threats play in U.S. defense policy.<sup>5</sup> And in fact, the administration has made increasingly specific threats to increase the apparent ability of the U.S. nuclear arsenal to deter chemical or biological weapons attacks against the United States, U.S. forces overseas, and U.S. allies. The NPR, for example, proposes to reorient the U.S. nuclear force posture to address these specific threats. The Bush administration also apparently believes that the nation's overwhelming conventional and nuclear capabilities will dissuade adversaries from developing military capabilities to threaten the United States. On the other hand, the Bush administration appears less confident that deterrence alone will protect the United States, U.S. forces, and U.S. allies. Officials argue that deterrence was a viable defense strategy during the Cold War because likely attackers were known, had something of value to lose, and were deemed by most observers most of the time to be capable of perceiving the strategic situation in a rational way. Administration officials now argue that these condi-

tions no longer hold. In testimony before the Senate Armed Services Committee in the Spring of 2001, Under Secretary of Defense for Policy Doug Feith, for instance, expressed his doubts about the effectiveness of deterrence against contemporary threats:

What we can predict today is that we will face unanticipated challenges, a range of opponents—some familiar, some not—with varying goals and military capabilities, and a spectrum of potential contingencies involving very different stakes for the United States and its foes. These conditions do not permit confident predictions about the specific threats against which we must prepare or the ‘stability’ of deterrence.<sup>6</sup>

The Bush administration’s National Security Strategy also suggested that deterrence is of limited relevance and effectiveness: “. . . deterrence based only upon the threat of retaliation is less likely to work against leaders of rogue states more willing to take risks, gambling with the lives of their people, and the wealth of their nations.”<sup>7</sup> One can only add that deterrence is even less likely to work against groups like al-Qaeda that want to use terrorism to provoke a U.S. military response. Indeed, it is hard to argue with President Bush’s statement during his oft-cited June 2002 speech at West Point that: “Deterrence—the promise of massive retaliation against nations—means nothing against shadowy terrorist groups with no nation or citizens to defend.”<sup>8</sup>

No one has challenged the Bush administration’s thinking about deterrence as it relates to transnational terrorist organizations. Al-Qaeda was not deterred by the array of military capabilities possessed by the United States. And while the aggressive U.S. response to the 9/11 attacks may not have been anticipated, al-Qaeda remains undaunted and has continued its attacks on the United States and its allies around the globe. The United States was able to force a regime change in Afghanistan through overwhelming military force, but not the elimination of the terrorists it was after. Simply put, al-Qaeda and Osama bin Laden have not been deterred. What many find more controversial, however, is the Bush administration’s assertion that rogue states, like terrorists and terrorist organizations, cannot be deterred. President Bush told the West Point audience, for example: “Containment is not possible when unbalanced dictators with weapons of mass destruction can deliver those weapons on missiles or secretly provide them to terrorist allies.”<sup>9</sup> The possibility of collusion among so-called rogue states with known terrorist organizations has prompted the Bush

administration’s characterization of this group as “terrorist” states.<sup>10</sup> For the Bush administration, it thus makes sense to include Iraq in the war on terrorism. Secretary of Defense Donald Rumsfeld, for instance, has said that “Iraq is part of the global war on terror. Stopping terrorist regimes from acquiring weapons of mass destruction is a key objective of that war, and we can fight the various elements of the global war on terror simultaneously. . . .”<sup>11</sup>

It is impossible to prove conclusively the effectiveness of deterrence, because it is impossible to demonstrate why something did not happen. Indeed, over the years, a cottage industry of sorts has sprung up to explore if and when deterrent threats affect the calculations of policymakers. Thus, it is not surprising that many challenge the idea that rogue states cannot be deterred. Critics point to Libyan leader Muammar Qadafy—the 1980s version of Saddam Hussein—as an example of a rogue leader who eventually abandoned his ties to terrorists and generally curbed other unacceptable behavior as a result of deterrence (reinforced by a near-death experience courtesy of the U.S. Air Force) and political pressure over an extended period.<sup>12</sup> Others challenge the Bush administration’s assertion that Saddam cannot be deterred.<sup>13</sup> These analysts claim that a close analysis of Saddam’s actions reveals an opportunistic realist, who sought to exploit what he perceived as weak opponents (Iran and Kuwait) to improve his own strategic position, not an irrational and unpredictable megalomaniac. They further note that Saddam refrained from using chemical or biological weapons against coalition forces in the Gulf War after being threatened with an overwhelming U.S. response. They also note that Saddam’s use of chemical weapons was limited to opponents (the Kurds and Iran) who could not respond in kind. From this analysis they conclude that Saddam exhibits a despicable but wholly rational thought process.<sup>14</sup> Another variation on this theme is the suggestion that Saddam’s primary motivation is to remain in power and that he will avoid actions that could jeopardize his regime’s survival. Former National Security Adviser Brent Scowcroft, for example noted that Saddam has no incentive to aid and abet terrorist organizations that are engaged in direct attacks on the United States, since upon discovering his involvement, America would respond with overwhelming force that would lead to the end of his regime.<sup>15</sup>

These arguments are rejected by the Bush administration. If deterrence will not work against the most likely

threats faced by the United States, administration officials suggest that preventive war and preemption are the only alternatives available to deal with these threats. Although the terms often are used interchangeably, “preventive war” and “preemption” are distinct strategic concepts. Preventive war is based on the concept that war is inevitable, and that it is better to fight now while the costs are low rather than later when the costs are high. It is a deliberate decision to begin a war. Preventive war thinking seems to dominate Bush administration planning about Iraq: It is better to destroy Saddam Hussein’s regime now than to deal later with a regime armed with nuclear weapons or other WMD. Preventive war thinking, however, can turn out to be a self-fulfilling prophecy, since treating war as inevitable can help make it inevitable. It also can lead to unnecessary conflict because few things are inevitable: Saddam could die of natural causes next week, producing a significant opportunity for the United States and its allies to shape Iraqi politics and policies.

Preemption, by contrast, is nothing more than a quick draw. Upon detecting evidence that an opponent is about to attack, one beats the opponent to the punch and attacks first to blunt the impending strike. States that fear preventive war often adopt preemptive strategies: During the Cold War, preemption, often referred to as a “launch-on-warning attack,” was depicted as a desperate doctrine to thwart an opponent’s effort to bring the Cold War to a final showdown.

Thus, four factors converged to highlight preventive war and preemption as policy options in the Bush administration’s foreign and defense policies. First, given that retaliation in kind by probable adversaries is unlikely, deterrence is no longer the only defense option available to the United States. The United States can adopt defense-by-denial strategies. In other words, the United States can actually prevent attacks upon itself or its interests by destroying opponents or opponents’ capabilities to achieve their objectives. Denial strategies, *ceteris paribus*, work best when implemented before an enemy can strike a blow.

Second, deterrence generally does not work against terrorists. Stateless and usually spread over wide regions or even among continents, terrorists do not present a viable target for retaliation. The death and destruction that can be visited upon a terrorist organization in a retaliatory attack is greatly exceeded by the damage even small terrorist cells can inflict on civilian society. Terrorists often seek a disproportionate response from the

governments they attack in the hope of provoking a sympathetic response from some target audience. Thus, savage reprisals in kind can actually play into the hands of terrorists.

Third, recent events have given much credence to the idea that the United States should take action to stop dangerous groups or states before they can acquire weapons of mass destruction or launch some nefarious scheme. Today, there is little sympathy inside the administration for “wait and see policies” when it comes to dealing with potential threats. Elected officials in both political parties are aware that the American public has been relatively forgiving by not looking for scapegoats for 9/11, despite evidence that warning signs of al-Qaeda’s diabolical intentions were ignored, caught up in bureaucratic red tape, or subsumed by background clutter. Indeed, several Democratic contenders for the presidency in 2004 already sense political opportunity: They have criticized the Bush administration for not doing enough in the war on terrorism. The Bush administration is committed to not being surprised again, and given Saddam Hussein’s track record, it would in fact be difficult to explain what happened should Iraq catch the administration napping.

Fourth, nonproliferation and disarmament efforts in the 1990s failed to stop several serious threats to international security, although they did a good job at publicizing the dangers posed by countries, such as Iraq or North Korea, that have acquired chemical, biological, or nuclear weapons. Today, the Bush administration is simply responding to a changing threat environment by reorienting U.S. military capabilities and doctrine to meet new dangers. Champions of nonproliferation and disarmament will of course identify the U.S. response to proliferation as the cause of proliferation. But, the administration’s strategic reorientation, articulated in the NPR and the December 2002 National Strategy to Combat Weapons of Mass Destruction, while not popular in some circles, constitutes a rational response to real threats.

### **THE INTERNATIONAL LEGAL FRAMEWORK GOVERNING THE USE OF FORCE**

Under these circumstances, the Bush administration has developed new guidelines to govern the use of force in combating emerging terrorist adversaries or to deal with “terrorist states,” to use a characterization recently coined by Defense Secretary Donald Rumsfeld.<sup>16</sup> The Bush administration’s National Security Strategy states: “We

must be prepared to stop rogue states and their terrorist clients before they are able to threaten or to use weapons of mass destruction against the United States and our allies and friends."<sup>17</sup> Not only does the Bush administration proclaim its determination to attack foes in anticipation of hostile acts, but that these attacks may occur unilaterally, presumably without prior authorization from the United Nations Security Council:

The greater the threat, the greater is the risk of inaction—and the more compelling the case for taking anticipatory action to defend ourselves, even if uncertainty remains as to the time and place of the enemy's attack. To forestall or prevent such hostile acts by our adversaries, the United States will, if necessary, act preemptively.<sup>18</sup>

The potential targets for action using these assumptions are: (1) terrorist organizations, (2) states that harbor or support terrorist organizations, and (3) states that are developing and/or maintaining weapons of mass destruction that do not conduct themselves in accordance with generally accepted norms of international behavior. The terrorist organizations and states that would appear to meet the Bush administration standards for preventive war include al-Qaeda, Iran, Iraq, Syria, Sudan, Libya, and North Korea.

How much do the Bush administration's stated policies depart from traditional U.S. foreign policy? America's foreign policy record has long been the subject of ideological, policy, and partisan debate. A recent study by the nonpartisan Congressional Research Service, however, found that the United States has never engaged in a preemptive attack against another nation,<sup>19</sup> defining that circumstance as one in which the United States attacked another country "so as to prevent or mitigate the threat or use of force by another country against the U.S." The study further concluded that with the exception of the 1898 Spanish-American War, the United States has never attacked any country prior to having been attacked itself. Such narrowly construed characterizations of the use of force in America's past are rejected by others, who assert the nation's various armed forays into Central and South America throughout the 19th and 20th centuries, in addition to the Vietnam War, belie the notion that the nation has been operating in some sort of assumptive straightjacket when it comes to using force.<sup>20</sup> Most Americans, however, assume that the United States will use force only to defend itself, which implies that it will not be the first to go to war in a crisis. For example, revelations that the Tonkin Gulf incident was more of a confused melee

than a deliberate North Vietnamese attack on U.S. warships were treated as a scandal by many Americans, because it is important to them that the United States engage in combat only as a matter of self-defense.<sup>21</sup>

Critics believe that the Bush administration's ideas about preventive war and preemption represent a significant departure from America's history and traditions of using force, and are at odds with the evolution of international norms that identify when it is permissible to use force. Prior to World War II, international law generally endorsed the idea that states could use force in self-defense if it was believed that an attack was imminent. Indeed one of the fathers of international law, Hugo Grotius, even held that it was "lawful to kill him who is preparing to kill."<sup>22</sup> In the aftermath of the British preemptive attack on the USS *Caroline* in 1837, Secretary of State Daniel Webster provided an enduring international legal formulation clarifying when preemptive attack was warranted: (1) when "the necessity of that self-defense is instant, overwhelming, and leaving no choice of means and no moment for deliberation" and (2) if such an attack was proportional to the threat.<sup>23</sup> Since World War II, the United States has generally supported and operated within the legal framework provided by the United Nations that protected the rights of member states and described when and under what circumstances states could use force. The overall impact of the UN Charter generally was to narrow the international legal justification governing when states could resort to force. The UN Charter established the principle of sovereign equality, and called on all member states to refrain from the threat or the use of force against the territorial integrity or political independence of other member states.<sup>24</sup> Under the charter, those states that violated this norm were liable to a collective response from the international body of UN members. The principle of using force in self-defense is enshrined in the charter. Chapter VII, Article 51 recognizes the "inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security."<sup>25</sup> Article 51 also suggests that states, or groups of states, are

not authorized under international law to attack other states preemptively under any circumstances, since self-defense only after an attack obviates preemption.

There have been several celebrated instances where states used force preemptively in ways that were at variance with the UN legal framework, among them: (1) Israel's preemptive attack on its neighbors during the 1967 Six-Day War and (2) Israel's bombing raid in June 1981 that destroyed an Iraqi nuclear reactor under construction at Osiraq. While the United States seriously considered using force preemptively during the Cuban missile crisis in 1962, in the end President Kennedy invoked regional security provisions of the UN Charter when he placed Cuba under a U.S. naval "quarantine." Many believe that the quarantine of Cuba was a successful variant of the preventive use of force, since Kennedy's objective was to prevent any future threat to the United States brought about by the fundamental change in the U.S.-Soviet military balance that would have occurred had the Soviets been allowed to base longer-range offensive ballistic missiles permanently in Cuba.<sup>26</sup> Perhaps a more accurate characterization of this situation is that the quarantine (otherwise known as a blockade, which is an act of war) was just one step removed from a preventive military attack.

From the perspective of realist definitions of international relations that are based on the assumption that states find themselves in an anarchical environment, justification for preventive war is embedded in the very nature of international relations. In this view, since international relations constitutes a "self-help" system in which all states are responsible for their own security, the possibility that others will engage in aggression at some point in the future can never be ruled out. With a few notable exceptions, however, states that decide to eliminate this fundamental uncertainty about others' future intentions by launching preventive wars and preemptive attacks are usually known to history as the aggressor in a given conflict. History also suggests that states that act aggressively always justify their action on the grounds of self-defense, which in part explains why the UN Charter takes such a dim view of preventive war or preemptive attack.

By advocating preventive war and preemption, especially as a possible response to Iraq's failure to fulfill its obligations under UN Security Council resolutions to eliminate its nuclear, chemical, and biological weapons and associated infrastructure following the Gulf War, the Bush administration is generally depicted if not being on the wrong side of international law, then pushing the limits

of what is generally considered to be constructive international behavior. The apparent effort to legitimize preventive war and preemption is often depicted as creating an intolerable precedent when it comes to other enduring conflicts. How will India and Pakistan, or Israel and Syria, for example, respond to a U.S. preventive war against Iraq? If the Bush administration is now willing to undertake preventive war, how will this shape the overall tenor of international relations? Will it signal a new respect for international law, or just a growing reliance on the use of force in world politics?

### Rhetoric versus Reality

The theory and practice of international relations inevitably collide, and the clash between the Bush administration's ideas of preemption and preventive war and international reality offer no exception to this rule of thumb. While critics decry the Bush administration's views on these issues, they discount the powerful practical and political restraints imposed by the international system when it comes to putting these ideas into practice. While acting unilaterally might sound good in principle, the political and logistical difficulties of applying force halfway around the world are powerful obstacles to unilateral action. Moreover, the political costs of abrogating international law are substantial. These costs will make it difficult if not impossible for the United States to operate outside the construct of international law on any kind of sustained basis. The December 2002 interception of a North Korean shipment of Scud missiles to Yemen is a case in point. Even after discovering Scuds hidden aboard a North Korean vessel, the absence of international legal authority to seize the shipment forced the United States to allow it to proceed to Yemen—despite a new counterproliferation strategy document suggesting that the United States would aggressively stop such shipments.

All too often in the study of foreign affairs and defense matters, the normative instincts of both supporters and detractors of current policy override attempts to develop an objective assessment of both strategic and political realities. In other words, policy debate focuses on whether or not some initiative is appropriate, without an accurate assessment of the current threat or without a complete assessment of the various constituencies that are being addressed by some policy. Thus, by slightly altering the analytical framework used to characterize the Bush administration's recent departure in foreign and defense policies, it is possible to cast the administration's initiatives in a different light, in which they no longer appear

to be either so diabolical or groundbreaking. For instance, the idea that the United States will engage in a preventive war or will launch preemptive attacks against al-Qaeda or other terrorist organizations flies in the face of the fact that the “war on terrorism” has been ongoing for nearly a decade, even though Americans and their elected officials have only recently taken it seriously. Al-Qaeda may have been loosely linked to the militias that battled U.S. Army Ranger units in Somalia in 1993. Al-Qaeda sympathizers also were involved in the bombing of the office of the program manager for the Saudi Arabian National Guard in Riyadh in November 1995 and in the attack on the Khobar Towers complex in Dahran in July 1996. Lingering doubts about the threat were dispelled following al-Qaeda’s bombing of the U.S. embassies in Kenya and Tanzania in August 1998 (after which the U.S. returned fire), and the attack against the USS *Cole* in October 2000. Even though one hopes that by going on the offensive against terrorism the Bush administration can stop further attacks before they occur, it would be difficult to describe the battle against terrorism as a preventive war.

Three factors often complicate the assessment of the Bush administration’s foreign and defense policy agenda and performance. First, all policy must be brought before a domestic and international audience, and it often is difficult to provide both audiences with rhetoric that they will find pleasing. Second, there is a difference between theory and practice when it comes to implementing foreign and defense policy. Third, there is a difference between ends and means in foreign and defense policy. These considerations are often conflated, however, when critics and administration supporters are discussing the Bush administration’s policies, making it difficult to judge the true intent or potential impact of proposed U.S. actions.

### **Domestic versus International Politics**

Although academics and policy observers find the search for ways to deter terrorists or contemplation of whether Saddam Hussein can be deterred to be intellectually challenging, for a domestic audience protection against external threats means just that, protection. Moreover, Americans fully expect that the United States will bring to justice everyone responsible for the 9/11 atrocities, even if it takes decades. Thus, the Bush administration must tell the American public that it will eliminate threats to U.S. security before they can again cause harm to Americans because this is the only politically acceptable alter-

native available to elected officials in Washington. After all, if \$400-odd billion spent annually on national defense cannot stop the next group of 19 individuals from blowing up a national landmark and killing thousands of civilians, then maybe there is in fact something wrong with the way the country conducts its foreign and defense policy. Alternatives to existing policy exist, but they are not within the realm of *political* possibility. The Bush administration, for example, could state that it will rely on its economic, military, or diplomatic capabilities to deter terrorists or Saddam Hussein, but in the aftermath of 9/11, this approach might be viewed simply as a failure to take action against known threats. Indeed, a failure of deterrence today would prove to be politically disastrous. The administration also might argue that the cost of responding to terrorism actually exceeds the damage that terrorists can inflict against the United States. In other words, it is more cost-effective to increase efforts at mitigating the damage of a terrorist attack than spend billions of dollars trying to hunt down individual fanatics. To a certain extent, the administration has even advanced this type of policy by making the paradoxical suggestion that people should go about their business in a normal way while keeping a sharp lookout for suspicious activity. But this kind of advice often produces consternation among a public that desires a solution to the problem of terrorism and a return to a comfortable sense of impregnability. Thus, in terms of domestic politics, defense through denial is the order of the day: The United States government must deny terrorists and even small dangerous regimes the opportunity to carry out their nefarious schemes. Recent events highlight the importance of preventing these suicidal threats by firing first: The November 2002 U.S. attack on al-Qaeda operatives by a Hellfire-armed Predator in Yemen in November 2002 may become more the rule than the exception in this environment.

Talk of preventive war, preemption, or even taking the fight to the enemy is extremely unsettling, however, when played before an international audience, despite the fact that the United States is well within its legal rights to destroy terrorism and terrorists. United Nations Security Council Resolution 1368 provided the international legal basis for the ongoing war on terrorism by allowing any member state to take “...all necessary steps to respond to the terrorist attacks of 11 September 2001, and to combat all forms of terrorism, in accordance with its responsibilities under the Charter of the United Nations.” Indeed, the U.S. stance against terrorism reflects a deep

continuity with traditional foreign policy. For over two hundred years, states have jealously guarded their ability to be the sole actor on the world stage that has a de facto and de jure ability to use force to further its objectives.<sup>27</sup> What is curious about the administration's public campaign against terrorism, however, is the continued assertion that there is a link between Saddam and al-Qaeda that could result in the transfer of chemical, biological, or nuclear weapons to terrorists. Assuming that this relationship exists, military action against Iraq could then be justified under the same international legal framework used by the United States during its campaign in Afghanistan to overthrow the Taliban regime and to deny a safe haven for al-Qaeda. But many observers find the connection between Saddam Hussein and al-Qaeda to be far-fetched; they believe that it is unlikely that Iraq's secular regime would support religious fundamentalists, or that Saddam, who has plenty of personal and political enemies, would give "outsiders" control of a chemical, biological, or radiological weapon. But, linking Iraq to al-Qaeda does make sense in terms of U.S. domestic politics because Americans care far more about putting an end to international terrorism than in making sure that Iraq lives up to its international obligations to eliminate its capability to produce weapons of mass destruction.

For the international community, preventive war, preemption, or unilateral American military action is alarming because it raises the possibility that the United States will ignore the international institutions it has created with great effort since the end of the World War II. But what is forgotten in the international reaction to the U.S. threats against Iraq is that the United States is also within its rights, not to launch a preventive war, but to insist that the Security Council enforce its own mandates on Iraqi disarmament following the end of the Gulf War. The international community has demanded that Iraq abandon its effort to build, stockpile, or deploy weapons of mass destruction, and the United States claims the right to use force to back up this demand if Saddam Hussein fails to abide by those Security Council resolutions (16 by our count) calling for Iraqi disarmament.

### Theory and Practice

Although the Bush administration has stated repeatedly that it is willing to engage in preventive war or to launch preemptive attacks to head off particularly dangerous threats, in reality it has engaged in neither enterprise. In fact, if one was actually contemplating a preventive war or preemptive attack it would make little sense to adver-

tise these policies in advance because that would only tip off an opponent to what was about to unfold. Talk of preventive war and preemption could actually doom such policies to failure because they could lead opponents to take steps to reduce the effectiveness of any attack. Indeed, when attacks actually are launched, especially against terrorists, no one ever talks about it in advance. Qaed Salim Sinan al-Harethi, the senior al-Qaeda operative killed in Yemen on November 4, 2002, by a Hellfire missile fired from a U.S. Predator unmanned aerial vehicle, probably never even knew what hit him.

By contrast, at this writing Saddam Hussein, along with the rest of the world, knows about the forces slowly building up strength for an attack against Iraq if he fails to comply with UN mandates. In stark contrast to the surprise that facilitates successful preventive or preemptive attacks, the Bush administration is highlighting the military buildup against Iraq and is repeatedly stating its willingness to use force to make Iraq abide by the will of the United Nations. In effect, the Bush administration is not following a policy of preventive war or preemption vis-à-vis Iraq, but is instead engaging in a form of diplomatic and military activity known as coercion or compellence. Compellence is the use of threats to make an opponent act in a way desired by the actor issuing the threat, in this case to cease clandestine efforts to acquire or stockpile weapons of mass destruction. The administration is attempting to use America's overwhelming military superiority to compel Iraq to change its policy without launching a full-scale attack, by threatening Iraq with war if it fails to heed the UN Security Council. And if Saddam Hussein is not willing to comply with international mandates, then it is just possible that U.S. pressure might lead to a coup by elements of Iraqi society that would be happy to be rid of a blood-thirsty dictator. Bush administration officials have made repeated statements concerning the desirability of just such an outcome.

Preventive war and preemption are thus not really preferred options for the Bush administration in dealing with Iraq or other "rogue" states. True, preventive war or preemptive strategies would force the United States to give up a significant and highly credible diplomatic instrument provided by its overwhelming military capability. In other words, the United States can threaten to take military action to force other states to abide by its wishes; it does not have to use preventive war or preemption first in dealing with dangerous regimes. For example, in the ongoing crisis on the Korean Peninsula that broke



out following the October 2002 revelations of a clandestine North Korean uranium enrichment program, the Bush administration has avoided even talk of military action. Despite its previous bellicose rhetoric about North Korea—such as listing it as a member of the “axis of evil” in the January 2002 State of the Union Address and including it as a contingency target in the NPR—the administration has instead chosen to use its significant diplomatic, economic, and institutional leverage to engage the North Korean regime. These examples show the limitations of preventive war or preemption. Preventive war or preemption is a preferred option for states that are more closely matched in military capability than Iraq and the United States or for states that lack diplomatic or economic options.

Paradoxically, the administration’s obvious willingness to practice compellence raises doubts about its skepticism about deterrence. Deterrence and compellence share much in common since both assume that an opponent will be able to perceive credible threats. In other words, members of the Bush administration must believe that Saddam Hussein and his henchmen are not beyond the reach of reason or history, or the White House would not embrace a policy intended to communicate to Iraqi leaders that war is imminent if they do not comply with United Nations mandates. Additionally, the administration’s recent talk of preventive war and preemption could be part of a policy to strengthen U.S. deterrent threats, especially when it comes to opponents’ use of chemical and biological weapons. Clearly, the administration has failed to follow a suggestion recently offered by Stanford University Professor Scott Sagan: U.S. officials are threatening to use nuclear weapons in response to a chemical or biological attack against the United States, its forces overseas, and its allies.<sup>28</sup> If the administration was interested simply in preventive war or preemption, it would quietly prepare to launch the most militarily useful weapon against suspected chemical, biological, or nuclear weapons sites. There would be a lot less talk and a lot more action.

### **End and Means**

There is no doubt that the Bush administration is threatening to start a war to gain Iraq’s compliance with the 1991 agreements that terminated the Gulf War, and with UN resolutions calling for Iraq to abandon its chemical, biological, and nuclear weapons. There is little disagreement, even among Arabs, that both the world and the Iraqi people would be better off if Saddam Hussein and

his henchmen were not in power in Baghdad. In Iraq, the United States is presented with the quintessential “rogue” regime. Baghdad possesses and uses weapons of mass destruction, acts aggressively when opportunity arises, torments its own people, and demonstrates a chronic general hostility toward the United States and its interests. If Iraq launched an attack against one of its neighbors, declared the existence of its nuclear capability, or colluded with terrorists to attack the United States, no one could say that these events came as a surprise.

Many observers, however, are so disturbed by the prospect of war, any war, that they mistake means and ends in foreign policy and criticize the United States for taking what is a harsh and unrelenting stand against Iraq. All too often, the focus of debate is the American response to Iraqi violations of its international obligations, not on the Iraqi violations themselves. Yet, the reality of international relations is that there is a distinction between ends and means in foreign policy, and that the use of force is sometimes necessary to achieve positive and quite moral objectives. Even though we might hope that accommodation, constructive discourse, and generally desirable behavior will lead to positive outcomes, these hopes are not always realized. No matter how much we hope that good intentions will lead only to good consequences, “all good things” do not necessarily go together. The true test of a policy is not necessarily its moral purity or consistency, but its effectiveness.<sup>29</sup>

Allowing Saddam Hussein to continue to hold the reigns of power in Baghdad incurs risks that go beyond the Bush administration’s immediate list of threats posed by Iraq. Saddam’s regime threatens the existence of the nonproliferation regime, international law, and especially the international institutions that U.S. officials have championed since the end of World War II. Admittedly, senior officials in the current administration have little faith in these institutions, but their pronouncements on this issue should not necessarily be viewed as an accurate description of reality. To the contrary, if Saddam succeeds in showing that these institutions and organizations are impotent, he will effectively demonstrate the benefits of abandoning the pretext of international cooperation and helping oneself in the inherently self-help international system. The current case of Iraq is not historically unique. In the interwar period, as Germany rearmed, an international arms control regime failed to take action even after ample evidence was uncovered of a clandestine rearmament program. In fact, the Inter-Allied Control Commission established in 1919 to conduct on-site

inspections to guarantee German disarmament concluded in its final report, issued in January 1927, that "Germany had never disarmed, had never had the intention of disarming, and for seven years had done everything in her power to deceive and 'counter control' the Commission appointed to control her disarmament."<sup>30</sup> It was not the inspection regime that failed in Germany; it was the fact that after 1925 the regime was not enforced.

## CONCLUSION

An unintended but useful byproduct of the Bush administration's pronouncements on preemption and preventive war may be the revitalization of the international institutions that are *supposed* to help manage international conflict. There can be no doubt that the Bush administration's threats to use force against Iraq are credible to the international community. In the face of harsh U.S. rhetoric, the UN Security Council was forced to lay down one final marker to Saddam. The Security Council has now set events on a path that could easily terminate in Gulf War II. It also is clear that the United States will not allow the Security Council to shrink from enforcing its own resolutions on Iraq. After a decade of hiding from the issue of Iraqi noncompliance with UN mandates, Saddam Hussein is now going to get the international attention he so richly deserves.

The new international legal basis for the ongoing war on terrorism also provides states with a useful guide to behavior, especially in circumstances that are at variance with those that are specifically identified in Chapter VII of the United Nations Charter. United Nations Security Council Resolution 1368 allows the global community to hunt down terrorists and to disrupt their schemes wherever and whenever they are encountered. While the political realities of sustaining this international consensus against terrorism are daunting, the existence of the legal authority to do so removes a powerful impediment to a sustained multilateral campaign against transnational terrorist organizations. And while it is certainly true that not everyone can agree on the distinction between a freedom fighter and terrorist in every situation, a consensus for action now exists to prevent a horrific act from being committed in almost any circumstance. As long as al-Qaeda continues to attack targets around the globe and as long as Chechen separatists blow up apartment buildings and government offices, killing innocent civilians, the international community will work together using force if necessary to address the threat.

Thus, the international community seems to have signed up to the Bush administration's thinking on preemption and preventive war (i.e., turning from a reliance on deterrence to denial strategies), at least when it comes to the international war on terrorism. It remains to be seen whether this international consensus can be extended and sustained in terms of forcing Iraq to comply with its international obligations. By sparking a discussion about the use of force to support UN mandates, the Bush administration has prompted a useful global debate on whether and under what conditions force should be used to manage the international environment. Here the psychological impact of the 9/11 attacks—not just on Americans but on the global community—are worth noting. Against that backdrop, the international community agreed to topple a regime in Afghanistan as part of the war on terrorism. Perhaps it is not a stretch to suggest that a similar consensus could also coalesce around other serious threats to international peace and security.

<sup>1</sup> The views expressed in this article are those of the authors and do not represent policy of the Department of Defense or the United States Navy. We also would like to thank Elizabeth Skinner for her editorial assistance.

<sup>2</sup> Michael Hirsh, "Bush and the World," *Foreign Affairs* 81 (September/October 2002), pp. 18-43; G. John Ikenberry, "America's Imperial Ambition," *Foreign Affairs* 81 (September/October 2002), pp. 44-60.

<sup>3</sup> The White House, *The National Security Strategy of the United States of America*, September 2002, Foreword, p. 2, <<http://www.whitehouse.gov/nsc/nss.html>>.

<sup>4</sup> Keith B. Payne and C. Dale Walton, "Deterrence in the Post-Cold War World," in John Baylis, James Wirtz, Eliot Cohen and Colin Gray, eds., *Strategy in the Contemporary World* (Oxford: Oxford University Press, 2002), pp. 161-182.

<sup>5</sup> U.S. Department of Defense, *Quadrennial Defense Review Report*, September 30, 2001, pp. 11-13, <<http://www.defenselink.mil/pubs/qdr2001.pdf>>.

<sup>6</sup> U.S. Senate, Armed Services Committee, Statement of Honorable Douglas J. Feith, Undersecretary of Defense for Policy, Hearing on the Nuclear Posture Review, 107th Cong., 1st sess., February 14, 2002, p. 2.

<sup>7</sup> The White House, *The National Security Strategy*, p. 15.

<sup>8</sup> The White House, Office of the Press Secretary, Remarks by the President at the 2002 Graduation Exercise of the United States Military Academy, West Point, New York, June 1, 2002, p. 3 of text.

<sup>9</sup> *Ibid.*, pp. 3-4.

<sup>10</sup> U.S. Senate, Armed Services Committee, Testimony of Secretary of Defense Donald H. Rumsfeld Regarding Iraq, 107th Cong., 2nd sess., September 19, 2002, <<http://www.defenselink.mil/speeches/2002/s20020918-secdef.html>>.

<sup>11</sup> *Ibid.*, pp. 9-10.

<sup>12</sup> Alan Kuperman, "Should the USA Punch First?" *USA Today*, November 12, 2002, p. A23, <[http://www.usatoday.com/news/opinion/2002-11-12-oped-kuperman\\_x.htm](http://www.usatoday.com/news/opinion/2002-11-12-oped-kuperman_x.htm)>.

<sup>13</sup> See John J. Mearsheimer and Stephen M. Walt, "Realists' Are not Alone in Opposing War With Iraq," *Chronicle of Higher Education*, Letters to the Editor, November 15, 2002, p. B19. Mearsheimer and Walt have also written a longer piece titled, "An Unnecessary War," *Foreign Policy* (Jan/Feb 2003), <<http://www.foreignpolicy.com/wwwboard/walts.html>>.

<sup>14</sup> Mearsheimer and Walt, "An Unnecessary War."

<sup>15</sup> Brent Scowcroft, "Don't Attack Saddam," *Wall Street Journal*, August 15, 2002, p. A12.

<sup>16</sup> See U.S. Senate, Testimony of Secretary Rumsfeld, September 19, 2002. Sec-

retary Rumsfeld repeatedly referred to "terrorist states" in his testimony. Rumsfeld specifically identified Iran, Libya, North Korea, Syria, and Iraq as such states.

<sup>17</sup> The White House, *The National Security Strategy*, p. 14.

<sup>18</sup> *Ibid.*, p. 15.

<sup>19</sup> Richard F. Grimmett, "U.S. Use of Preemptive Military Force," Congressional Research Service document RS21311, September 18, 2002, pp. 1-2, < <http://www.fas.org/man/crs/RS21311.pdf> >.

<sup>20</sup> *Wall Street Journal* columnist Max Boot is the most vocal of those arguing this point. See "Who Says We Never Strike First?" *New York Times*, October 4, 2002, p. A27. Also see Boot's article, "Everything You Think You Know About the American Way of Fighting War is Wrong," History News Network, October 7, 2002, <<http://hnn.us/articles/1022.html>>.

<sup>21</sup> Edwin Moise, *Tonkin Gulf and the Escalation of the Vietnam War* (Charlotte, NC: University of North Carolina Press, 1996).

<sup>22</sup> Hugo Grotius, *The Law of War and Peace*, cited in David Ackerman, "International Law and the Preemptive Use of Force Against Iraq," Congressional Research Service, document RS21214, September 23, 2002, p. 1, <[http://www.iraqresearch.com/RS21314\\_1/rs21314\\_1.html](http://www.iraqresearch.com/RS21314_1/rs21314_1.html)>.

<sup>23</sup> As cited in Ackerman, "International Law," p. 2. Also see Bruce Ackerman,

"But What's the Legal Case for Preemption?" *Washington Post*, August 20, 2002, p. B2. The article is also posted at the Yale University Law School website, <[http://www.law.yale.edu/outside/html/Public\\_Affairs/282/yls\\_article.htm](http://www.law.yale.edu/outside/html/Public_Affairs/282/yls_article.htm)>.

<sup>24</sup> *Charter of the United Nations*, Chapter I, Articles 1 and 2, <<http://www.un.org/Overview/Charter/contents.html>>.

<sup>25</sup> *Ibid.*, Chapter VII Article 51.

<sup>26</sup> See Robert Dalleck and Robert Jarvis, "Preventive Attacks Fail the Test of History," *Los Angeles Times*, October 20, 2002, p. M2.

<sup>27</sup> Janice Thomson, *Mercenaries, Pirates and Sovereigns* (Princeton: Princeton University Press, 1994).

<sup>28</sup> Scott D. Sagan, "The Commitment Trap," *International Security* 24 (Spring 2000), pp. 85-116.

<sup>29</sup> For a recent restatement of this Machiavellian sense of virtue, see Robert D. Kaplan, *Warrior Politics: Why Leadership Demands a Pagan Ethos* (New York: Random House, 2002).

<sup>30</sup> Inter-Allied Control Commission Report quoted in Barton Whaley, "Conditions Making for Success and Failure of Denial and Deception: Authoritarian and Transition Regimes," in Roy Godson and James J. Wirtz, eds., *Strategic Denial and Deception* (New Brunswick, NJ: Transaction, 2002), p. 57.