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PREVENTIVE WAR MEETS LEGITIMACY:
BALANCING POWER, THREATS, AND GLOBAL
NORMS IN THE BUSH NATIONAL SECURITY STRATEGY

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ABSTRACT

On a day now commonly referred to as "9/11," terrorist used the element of surprise and the openness of American society to wreak havoc on an unprepared and unsuspecting nation whose way of life from that day forward would be described as the "new normal." To address this new threat the Bush Administration published a new *National Security Strategy (NSS)* highlighting the doctrine of "preemption" as its centerpiece. Preemption – defined as striking first at an adversary about to attack – is not to be confused with preventive war – defined as attacking a potential enemy to prevent an attack by that enemy at a later time. The delicate line as to where these two different but closely related concepts cross is vague and somewhat unclear. And indeed, the new "Bush strategy" is viewed by many as illegal, illegitimate, and counter-productive to U.S. foreign policy national interest. This review examines the wisdom and legitimacy of the Bush strategy and its impact on the world community. As the world's only superpower, the United States struggles to find a balance between power, global norms, and the threat of global terrorism and rogue states. This research paper concludes by providing recommendations to bring clarity to this much discussed but misunderstood subject.

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> The United States has long maintained the option of preemptive actions to counter a sufficient threat to our national security. 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.

> - President George W. Bush
> *The National Security of the United States of America*
> 17 September 2002[1]

On a day now commonly referred to as "9/11," terrorist used the element of surprise to wreak havoc on an unprepared and unsuspecting nation whose way of life from that day forward would be described as the "new normal." These cowardly acts resulted in the loss of over three thousand lives stretching from the busy streets of New York City to the halls of the Pentagon in Arlington and finally to an empty field in Shanksville, PA. The enemy who perpetrated this crime was identified as terrorists and war was immediately declared against them by U.S. President George W. Bush. As is often the case, it takes a tragedy of great magnitude to bring about a serious change or revision in policy. To answer this threat, and to provide much needed guidance and leadership to an unsettled nation, the Bush Administration later published its *National Security Strategy (NSS)*. The hallmark of the new strategy was the doctrine of "preemption" whereby the United States reserved the right to protect its citizens and interests by striking potential adversaries first before the enemy could strike the country, its friends, or allies. This new doctrine has generated enormous controversy and is viewed by many as illegitimate and counter-productive to U.S. national interests.

The primary focus of this research paper is to analyze critically the legality, legitimacy, and effectiveness of the Bush strategy in combating terrorism and the danger of rogue states. This review covers definitions, global norms, historical precedence, new threats, new strategy, and the testing of the new strategy in Operation Iraqi Freedom (OIF). Finally, this study concludes by providing recommendations to bring clarity to a much discussed but misunderstood subject.

DEFINITIONS: PREEMPTION AND PREVENTIVE WAR

In a post 9/11 environment that is without question volatile, uncertain, complex, and ambiguous, all terms associated with preemption and preventive war must be carefully defined in order to avoid confusion. In the new *NSS*, the Bush administration made the doctrinal shift

from containment plus deterrence to preemption. The new strategy indicates the United States will take preemptive action against its enemies instead of waiting for dangers to gather. A number of critics, however, believe the administration has conflated the terms, using the word "preemption" to justify what is in essence "preventive war." The following definitions are provided for clarity:

Preemptive attack, an attack initiated on the basis of incontrovertible evidence that an enemy attack is imminent.[2]

Preventive war, a war initiated in the belief that military conflict, while not imminent, is inevitable, and that to delay would involve greater risk.[3]

While both terms have familiarity in military and political circles, they are not used precisely at all times. The Bush administration terms its policy "preemption" but many might argue the point.

The Bush strategy was near the top of the political agenda during the last presidential debate in November of 2004. When moderator Jim Lehrer asked both Senator John F. Kerry and President George W. Bush the question, "what is your position on the whole concept of preemptive war?" Senator Kerry responded, **"**Jim, you've got to do it in a way that passes the test, that passes the global test, where your countrymen, your people understand fully why you're doing what you're doing and you can prove to the world that you did it for legitimate reasons." President Bush on the other hand responded with: "I'm not exactly sure what you mean, passes the global test. You take preemptive action if you pass a global test? My attitude is you take preemptive action in order to protect the American people, that you act in order to make this country secure."[4]

While Senator Kerry's response implies that the strategy should be legitimized by the global community, President Bush apparently holds no such a view. It is obvious from this spirited dialogue that the debate is very intense and one which will continue for the unforeseeable future. Plainly stated, the Bush strategy is preventive war not preemption because a U.S. attack against terrorists or rogue state threats could occur well before "incontrovertible evidence that an enemy attack is imminent." This is problematic because it is based on the proposition that it is possible to predict the future intentions of potential enemies or adversaries with a high degree of certainty.

Critics of the Bush strategy argue that it has no legal or practical basis for such action and thus it is a troublesome break from tradition which, if invoked, would cause significant problems with global order. They contend that if the Bush strategy is left unchecked as a de facto standard for the entire world community, that any nation could initiate preemptive action against

almost anyone for anything. India might take preemptive action against Pakistan or vice versa; North Korea could target South Korea; China could invade Taiwan; and any number of states could target the United States. While the critics of the Bush strategy are many, there are also supporters. Max Boot in the *New York Times* writes:

> Some argue that the current threat from Iraq is different from and less immediate than those faced in the past. Attacking Iraq now, they argue, would make this a preventive, not a preemptive, war, and hence less morally justified. This is a distinction that may have made sense in the past, when mobilization took time and diplomacy proceeded at a slower pace. But today weapons of mass destruction can be used without warning. For this reason, the distinction between preemption and preventive collapses.[5]

While Boot's argument has merit, a major issue in this ongoing debate is whether the Bush strategy will make the world safer or more dangerous. While preemption is generally considered just, the legitimacy of the Bush Strategy of preventive war must be more closely examined, especially when compared and contrasted with current global norms.

GLOBAL NORMS AND LEGITIMACY

Global norms are accepted standards of behavior or conduct that are generally agreed upon or assumed by the world community. Every sovereign nation regardless of race, religion, or traditions, has governing norms that may differ from society to society. For example, polygamy in some cultures is an established norm while it is unacceptable in others. In the strategic case, global norms such as when and under what conditions a nation goes to war against another entail far more serious and complex considerations. A generally accepted global norm is the right of any nation to act in self-defense toward an aggressor. Since its establishment in 1945, the United Nations (UN) has been the premier organization for the enhancement of international law and global norms. The "Preamble of the Charter of the United Nations" identifies the United Nations as the body "determined to save succeeding generations from the scourge of war by establishing conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained."[6] The Preamble also states "that armed force shall not be used, save in the common interest."[7] Sub paragraph 3 of Article 2 requires Members of the United Nations to "settle their international disputes by peaceful means" while Subparagraph 4 of the article mandates that "all Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state."[8]

Prior to the attacks of 11 September 2001, the world community appeared to embrace the global norm of obtaining appropriate UN Security Council approval before taking military action.

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This was the case in the Korea conflict in 1950 and with the first Gulf War in 1991. With its intervention in Iraq beginning in 2003, the Bush administration does not seem to hold itself to this standard of prior UN approval. Ironically, the United States, either directly or indirectly, has also inherited the responsibility for ensuring that global norms are adhered to throughout the world community.

The argument as to whether the United States, as the world's only superpower, should embrace this particular global norm is a very heated one. Francis Fukuyama, a noted political scientist, writes: "if we had in fact been designated global custodian…..we would have no legitimacy problem, but we have unfortunately designated ourselves."[9] What impact, if determined illegitimate by the world community, does the Bush strategy have on current global norms? If the United States can take preemptive action in the name of its own security based on its own threat assessment and its own decision-making, then what prohibits other sovereign nations from doing the same?[10] The general consensus among critics is that a preventive war strategy sets a dangerous precedent for the international community.

The challenge now for the United States and the world community is to reconsider the established customary international law criterion in light of the current environment. When it comes to fighting the global war on terrorism in the 21st century, is a UN Security Council approval conceived in 1945 still valid or has it become outdated and therefore irrelevant in an era of asymmetric warfare, terrorists, rogue states, and weapons of mass destruction? The Bush administration argues that the criterion is invalid because terrorists are primarily non-state actors operating out of nation-states or in some cases rogue nations. How does a country go about fighting and bringing to justice terrorists without violating the territorial sovereignty and integrity of the nation-states from which terrorists operate? How much justification, if any, is required before preventive action can reasonably be taken by a country? Is the new Bush strategy legitimate?

Legitimacy is a murky quality that helps define the relationship between the governed and the governor and, in the final analysis, legitimacy lies in the eyes of the beholder. Robert Tucker and David Hendrickson write that "legitimacy arises from the conviction that state action proceeds within the ambit of law, in two senses: first, that action issues from rightful authority, that is, from the political institution authorized to take it; and second, that it does not violate a legal or moral norm."[11] Legitimacy of a state's action is derived in part from the process by which the state seeks support by constructing the case for the desirability of the ends, ways, and means it wishes to pursue.[12]

Michael Walzer asserts in *Just and Unjust Wars* that preemptive military action is warranted only "when there is a manifest intent to injure, a degree of active preparation that makes that intent a positive danger, and a general situation in which waiting or doing anything other than fighting greatly magnifies the risk."[13] Walzer concludes by stating "the line between legitimate and illegitimate first strikes is not going to be drawn at the point of imminent attack but at the point of sufficient threat,"[14] that a state must commit to the use of force only when inaction could result in serious harm. Some guidance as to where the thin line between legitimate and illegitimate first strike, i.e., preemption, might be found in historical precedents.

PREEMPTION AND PREVENTIVE WAR: HISTORICAL PRECEDENT

The United States has always reserved the right to protect and defend itself against enemies foreign and domestic. There are numerous examples of states conducting military strikes in order to prevent attacks or avoid all-out war. The question remaining to be answered, however, is what constitutes a serious threat of war and, ultimately, who is responsible for determining if the threat is indeed "imminent?" The Caroline Incident, the Cuban Missile Crisis, the Six Day War, and the attack on the Osirak reactor are all examples of preemption or preventive war.

CAROLINE INCIDENT

One of the earliest examples of preemption in U.S. history occurred in 1837 in what is commonly known as the Caroline Incident. British troops crossed the Niagara River to the U.S. side and attacked the Caroline, a ship owned by U.S. nationals allegedly providing assistance to anti-British rebels in Canada.[15] The incident resulted in heated verbal exchanges from diplomats on both sides. The U.S. Secretary of State at the time, Daniel Webster, argued: "that a state properly exercising a right to preemptive self-defense would first have to demonstrate that the necessity of that self-defense is instant, overwhelming, and leaving no choice of means, and no moment of deliberation."[16] In other words, the attacking state must provide evidence to validate the threat is imminent and its national security is at risk if preventive action is not taken. This early episode concluded with an apology by the British government, an unresolved argument on the criteria for permissible self-defense, and an ongoing debate about the requirements for preemptive action that continues to this day.

CUBAN MISSILE CRISIS (1962)

The 1962 Cuban Missile Crisis is an illustration of anticipatory self-defense by the United States. For approximately thirteen days in October 1962, the world was on the brink of nuclear

war after U.S. intelligence sources revealed the presence of Soviet missile sites in Cuba.[17] President Kennedy's advisers initially recommended an air strike against the sites, however, he decided against it when the U.S. Strategic Air Command could only guarantee the destruction of approximately 90 percent of the missiles.[18] Although the situation may have provided some justification for preventive war, the President concluded that "such an attack would erode if not destroy the moral position of the United States throughout the world."[19] In the final analysis, the crisis ended by bringing to bear the military and diplomatic elements of national power: 1) the U.S Navy established a "quarantine" (blockade) of Cuba and the President issued an ultimatum that the missiles be removed and 2) presidential envoys in conjunction with the State Department initiated a very effective dialogue with the Soviet Union regarding Cuba and other security issues.

SIX-DAY WAR (1967)

The Jewish state of Israel has constantly struggled to maintain its sovereignty in the midst of a predominately Arab and Islamic Middle East. In June 1967, Israel launched military action against the United Arab Republic, then composed of Egypt and Syria.[20] While there was much UN Security Council debate on the issue at the time, Israel's rationale for the attack was simply the right of self-defense against what Israeli leaders believed was an imminent attack by Arab states.[21] Not surprisingly, there was support both for and against this action. Critics of the attack such as officials from the Soviet Union, Syria, and Morocco claimed that the first use of force was overwhelmingly decisive and rejected Israel's claim of anticipatory self-defense.[22] Proponents of the attack such as the governments of United States and United Kingdom were sympathetic but refrained from asserting that a doctrine of preemption was appropriate in this case. Scholars generally agree that this incident was a preemptive attack instead of preventive war. In the final analysis, however, there was no clear consensus for or against the legitimacy of the Israeli action.

ATTACK ON THE OSIRAK REACTOR (1981)

In 1981, Israel once again found itself at the center of the preemption debate when its air force destroyed the Osirak nuclear reactor it claimed Iraq would use to produce material for the manufacture of nuclear weapons. Similar to its position in 1967, Yehunda Blum, Israeli UN ambassador at the time, vigorously asserted "Israel was exercising its inherent and natural right of self-defense, as understood in general international law and well within the meaning of Article 51 of the [UN] Charter."[23] Once again, there was support for and against Israel's attack. Some states supported the lawfulness of anticipatory self-defense but maintained that Israel had failed

to meet the necessary requirements outlined in the UN Charter itself. Many argued that Israel was not trying to preempt an Iraqi attack but was simply conducting a prevention war operation designed to restrict Iraq's nuclear weapon capability.

The Caroline Incident, the Cuban Missile Crisis, the Six Day War, and the attack on the Osirak reactor are all examples of either preemptive attack or preventive war. In each case, the nation conducting the action argued that there was sufficient evidence to confirm the threat was imminent and that inaction would result in catastrophic consequences. The Bush administration has used these same arguments in defense of its strategy to combat the new threat of global terrorism.

NEW THREAT: TERRORISM

> It has taken almost a decade for us to comprehend the true nature of this new threat. Given the goals of rogue states and terrorists, the United States can no longer solely rely on a reactive posture as we have in the past. The inability to deter a potential attacker, the immediacy of today's threats, and the magnitude of potential harm that could be caused by our adversaries' choice of weapons, do not permit that option. We cannot allow our enemies to strike first.[24]

> - President George W. Bush
> *The National Security of the United States of America*
> 17 September 2002

The fall of the Berlin Wall marked the official end of the Cold War, but it failed to result in long term peace and stability as new threats emerged. In fact, the argument can be made that the security threats to this country at the end of the 20th century and the early years of the 21st century are far greater or at least more immediate than threats during the Cold War era. The new threat consists of terrorists, rogue states, and transnational actors and is compounded exponentially with the enemy's constant desire to obtain and utilize weapons of mass destruction. This threat seriously challenges U.S. national interests and makes global security extremely volatile.

The preponderance of the debate surrounding the Bush strategy is centered on how best to deal with the threat of terrorism. The newly dangerous threat is asymmetric and the traditional rules of warfare are not generally applicable. Many believe that since the nature of the threat has changed, the response to that threat must also change.[25]

Terrorism is defined as "premeditated, political motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents."[26] Terrorists now have the capability to inflict the kind of damage only states fighting wars used to be able to achieve. However, there are many valid questions that continue to go unanswered concerning this newly

defined enemy. How does the United States, or any other nation-state for that matter, deal with the threat? Should nations attempt to deal with unconventional enemies in conventional ways?

This new threat has been described by some as a "cancer" rather than a common cold. The implication being that the greatest victory one can hope to achieve is to keep the cancer in remission, for terrorism will never be completely eradicated across the world community. President Bush, however, has declared a war on terrorism that will be accomplished when Americans and other civilized people around the world can lead their lives free of fear from terrorist attacks.[27] The dangers of terrorism require a new strategy with clearly defined initiatives and objectives.

NEW STRATEGY: OBJECTIVES AND WISDOM

With the end of the Cold War and the apparent end to a successful policy of containment and deterrence, the United States found itself in the position of being the world's only legitimate superpower. As the new global hegemon on the world stage, the U.S. victory celebration was cut short by the terrible events of 9/11 which established terrorism as a primary threat to national security and the next major adversary. The administration's initial response was to destroy terrorist safe havens with a military attack on Afghanistan, dubbed Operation Enduring Freedom (OEF). Shortly afterwards, the Bush administration published its *NSS* which outlined the following initiatives:

- Build better, more integrated intelligence capabilities to provide timely, accurate information on threats, wherever they may emerge
- Coordinate closely with allies to form a common assessment of the most dangerous threats
- Continue to transform our military forces to ensure our ability to conduct rapid and precise operations to achieve decisive results.[28]

However, the core of the new strategy called "preemption" by the Bush administration has the following objectives:

- Defend the peace by fighting terrorists and tyrants.
- Preserve the peace by building good relations among the great powers.
- Extend the peace by encouraging free and open societies on every continent."[29]

Most importantly, the strategy emphasized that the United States can "no longer rely on a reactive posture" and "cannot allow our enemies to strike first." The NSS has proven to be

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domestically and internationally controversial with both the intent and objectives of the Bush strategy misunderstood or understood but opposed. Simply stated, the administration takes the approach of "let's attack them before they attack us."   Critics of the new doctrine interpreted it to mean "ready, shoot, aim" or "shoot now and ask questions later." Clarification as to the intent and the objectives of the new *NSS* may be helpful.

The Bush administration has taken a proactive position in identifying its main objectives by using the action verbs "defend," "preserve," and "extend." The common theme throughout the objectives is the word "peace." In reality, there will be decreasing peace and increasing chaos across the world community unless the Bush administration provides clarification or modification to the new strategy, perhaps by outlining certain conditions. Neta Crawford, editor for *Ethics & International Affairs,* writes that a legitimate preemption doctrine could occur if four necessary conditions were met:

1. The party contemplating preemption would have a narrow conception of the "self" to be defended in circumstances of self defense.
2. There would have to be strong evidence that war was inevitable and likely in the immediate future.
3. Preemption should be likely to succeed in reducing the threat.
4. Military force must be necessary; no other measures have time to work or be likely to work.[30]

William Cohen, former Secretary of Defense during the Clinton Administration, chimes in with "preemption is not the answer to the war on terror precisely because it cannot eliminate all non-state terrorists."[31] Cohen goes on to say "preemption cannot keep terrorists groups from using trucks, container ships, civilian airliners, private planes, and subway cars to attack the United States anywhere they choose."[32] Others believe if the United States embarks upon a strategy of preemption, the results merely serve to accelerate the proliferation of weapons of mass destruction, greater regional instability and war, and increasing frustration at the failure of force to achieve stated political objectives.[33]

Supporters of the strategy argue that preemption be used infrequently but needs to be an option should diplomacy, conventional deterrence, and other anti-terrorism strategies fail.[34] Inaction, they argue, is simply waiting for the inevitable to happen and it is neither smart nor prudent to accommodate terrorists. To take a conventional approach, would, in essence, play right into the hands of the new threat. But critics are not ready to accept the Bush strategy, a strategy to be severely tested in the Iraq war.

TESTING THE NEW STRATEGY IN IRAQ

The Bush Administration chose Afghanistan as the initial application and first testing ground for implementing its new strategy. While U.S. military action in Afghanistan was broadly accepted, Iraq, on the other hand, was another story.

The Bush administration's primary rationale for going to war in Iraq was based on faulty intelligence reports of Saddam Hussein possessing weapons of mass destruction which posed a serious threat to U.S. national security. Post combat operations in Iraq have confirmed the erroneousness of these intelligence reports and caused the American public to question the accuracy and value of U.S. intelligence resources.

The Bush administration also claimed, however, that Iraq had not lived up to prior UN resolutions and that coercive action was necessary to give substance and legitimacy to the UN and its decisions. Thomas Nichols, of the U.S. Naval War College argues that the current war against Iraq is simply a continuation of the 1991 Desert Storm war. He concludes his argument by saying "Operation Iraqi Freedom is not a preemptive or preventive war….the U.S. and its allies [were] already at war with the Iraqis; one cannot "preempt" or "preventively" attack a regime whose forces one is already attacking on a regular basis."[35]

Another argument as to why the United States went to war in Iraq operates at a more profound level. Thomas Friedman, a *New York Times* columnist, writes:

> Wars are always clarifying, and what this war clarified most was the degree to which there were actually three bubbles that burst at the beginning of the 21st century: a stock market bubble, a corporate ethics bubble and a terrorism bubble. Yes, this war was about Saddam. For George Bush and Tony Blair, though, I think it was about something larger, but unstated. They were implicitly saying: This terrorism bubble has come to threaten open societies and all they value. So, we're going to use Iraq – because we can – to demonstrate to you that we'll come right into the heart of your world to burst this bubble. Take note.[36]

These arguments notwithstanding, Robert Tucker and David Hendrickson of *Foreign Affairs* write: "the Bush White House has been oblivious to the need for securing international legitimacy. By styling its doctrine of preventive war the "strategy of preemption," it sought to approximate its strategy to one of self-defense—for preemption, if the threat is imminent, can at least make a tolerable claim to legitimacy."[37]

The debate surrounding the Bush strategy comes down to questions of global legitimacy and authority. In order to address these very important issues, two critical questions must be asked. Chaplain (Colonel) Franklin Eric Wester, Command Chaplain for the US Army Reserve Command writes:

The first test of legitimate authority includes determining the legitimacy of the person as a rightful office-holder and the second test focuses on whether or not the officer holder is in a position to properly authorize war. In the first test, President Bush as a legitimate national leader acted properly in his role as President of the United States. However, in the second test, in which President led a "coalition of the willing," this aspect is in serious doubt. From the most to the least credible authority for taking military action against a nation-state or national leader, the continuum would be: (1) unanimous international commitment, (2) United Nations decision (3) a UN Security Council decision (4) other regional or international alliance (5) an ad hoc coalition and (6) unilateral action. Viewing these frameworks as being from most to least legitimate and compelling, the U.S.-led coalition is in the range of 5 to 6.[38]

Hence, the legitimacy of the war is questionable at best. By most accounts, OEF in Afghanistan was viewed as a legitimate action by the United States in the world community. If OIF is indeed the first true test for the Bush strategy, then it goes without saying that there is much room for improvement.

Critics of the Bush strategy include Senator Bob Graham, a national figure and Co-chair of the House-Senate Joint Inquiry Committee into the intelligence community's failures prior to 9/11. He states "if we, the United States, are to adhere to a doctrine of preemption, we have to be certain of what we are preempting."[39] Senator Graham maintains that "we can't afford to be deceived, manipulated, or blinded by ideology—as we have been in Iraq—or to waste time and resources fighting threats that aren't real."[40] Philip Stephens of the *Financial Times* writes, "yet the irony is that the slide towards civil war in Iraq offers the most convincing rebuttal of Mr. Bush's reckless assertion that American power has no need of the legitimacy that flows from an international system grounded in the rule of law."[41]

Many believe the ultimate legitimacy of the war will be determined by its outcome, which is historically the case; victory somehow solidifies legitimacy. Despite the apparent success of the 2005 election in Iraq, it is too early to tell if the United States will be victorious in Iraq. Robert Kagan of *Foreign Policy* writes "if Iraq is unstable and undemocratic, and the stability of the region as a whole has not improved, then the legitimacy of American actions and of American foreign policy in general will be eroded.[42] He goes on to say, however, "it's a fact of life in the international system, because of the reality of weapons of mass destruction…the normal lead time that a nation has to protect itself is not what it used to be, so preemption will have to be part of the international arsenal."[43]

The Bush strategy may prove to be applicable in some cases and inapplicable in others. The rationale for going to war in Afghanistan and Iraq may not be applicable with Iran or North

Korea. When it comes to the legitimacy of the U.S. war in Iraq, the world community has voted largely in the negative.

RECOMMENDATIONS

Critics contend that the more the United States endorses a policy of "shoot now and ask questions later," the greater the justification we provide for other nations to use preemption as a pretext for attacking their enemies. Supporters of the doctrine contend that deterrence or inaction is not a reasonable option and only a proactive approach is likely to be effective in the war on terror. If the Bush strategy is considered illegitimate and challenges current global norms, then what viable options does the Bush administration have to assist in bringing clarity to this ongoing debate? Should the administration continue to take a unilateral approach by basically ignoring the United Nations or should it take a more multilateral approach by embracing UN authority and encouraging friends and allies to do likewise? The following recommendations are made to help bring needed clarity to the debate.

U.S. policy makers should continue to make global terrorism their number one priority. The criteria for applying preemptive force must be clarified, agreed upon in the domestic community, and articulated in the international community. Policymakers ought to emphasize traditional understandings of international law and stress that preemptive force is permissible in the exercise of anticipatory self-defense, but only if the "imminence" criterion of the *Caroline Incident* is met.[44] This approach is somewhat risky and would require nations to make the case that the use of force by an enemy state, or terrorist organizations operating within that state, is indeed "imminent" before a preemptive strike would be permissible. Based on the language in the current *NSS* and the administration's action to date, this approach requires a Bush administration retreat from policy that has already been initiated.

The Bush administration should indicate that, as a matter of policy, the use of preemptive force in the absence of imminent threat will be undertaken "only" with the approval of the UN Security Council, specifically in the form of a UN resolution.[45] Initiation of such a policy would enhance multilateral support for such action and prevent opening the flood gates to wholesale unilateral preventive action by other nations. The Bush administration must not assume that our current global hegemony will serve as warrant to the entire world community that we and we alone are authorized to pursue the doctrine of preemption.

As leader of the world's only superpower, President Bush must refrain from publicly using harsh language as occurred in his "axis of evil" speech. First, negative and inflammatory rhetoric does little to promote alliances and coalitions in the global war on terrorism. Second,

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the President must take the lead in the free world by acknowledging deficiencies in the current strategy and by challenging his administration to develop alternatives for improvement. Third, the President must clarify that the doctrine of preemption is not a "one size fits all" foreign policy recourse, but rather one used only when necessary and strictly on a limited "case-by-case" basis. Finally, and perhaps most importantly, President Bush must leverage the UN as the primary vehicle for gaining legitimate international consensus. In doing so, the United States restores the UN to a position of prominence and legitimacy as an international organization, thereby enhancing US standing in the eyes of the world community.

CONCLUSION

As the world's only superpower, the United States must firmly grasp the mantle of leadership in combating global terrorism. The Bush administration must avoid the mistake of assuming the world community will readily embrace its new strategy and allow military action to be practiced whenever and wherever it deems appropriate. Additionally, the administration must effectively balance its global hegemonic status and massive power against the awesome responsibility that accompanies world leadership. Balancing emerging threats, global norms, and perceptions of legitimacy are all difficult tasks to say the least. A recent comment by Kofi Annan, Secretary-General of the UN puts this issue in even sharper perspective:

> Until now it has been understood that when states decide to use force to deal with broader threats to international peace and security, they need the unique legitimacy provided by the United Nations. Now, some feel this understanding is no longer tenable, since an armed attack with weapons of mass destructions could be launched at any time, without warning, or by a clandestine group. Rather than wait for this to happen, they argue, states have the obligation to use force preemptively, even on the territory of other states….this logic represents a fundamental challenge to the principles on which world peace and stability have rested for the last 58 years.[46]

Without question, Kofi Annan's stern warning is directed at the United States with regards to the current war in Iraq. Mr. Annan is very distressed by and critical of the Bush strategy and the dangerous precedent it might establish if accepted by the international community as a global norm. The UN, as the premier international institution, must establish and presumably enforce global norms that apply to all countries including the United States. However, it appears the UN has lost some, if not most, of its authority and legitimacy in the international community and the current war in Iraq did nothing to enhance it. The Secretary General concludes his remarks by saying, "unless the Security Council is restored to its preeminent position as the sole source of legitimacy on the use of force, we are on a dangerous path to anarchy."[47] The United States must refrain from allowing its post 9/11 experience to create a

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world community where preventive war becomes the new global norm or the ultimate result will be chaos and confusion, death and destruction.

Legitimacy, therefore, remains the primary issue and major dilemma in this ongoing debate of the Bush administration. Many believe the ongoing violence in Iraq confirms the illegitimacy of the Bush strategy and in fact validates the immediate need for UN involvement. Supporters of the Bush strategy believe that warfare as we know it has been transformed and the United States can ill afford to wait for terrorists or WMD threats to materialize before taking appropriated action. They look to the recent elections in Iraq as validation of their legitimacy claim.

In the final analysis, the Bush administration must find the proper balance between power, threats, and global norms. To ultimately obtain the international legitimacy arguably needed and apparently desired, the Bush strategy requires more care in its application.

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