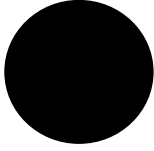


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Anarchy and Order in the New Age of Prevention

Thomas M. Nichols

And I put myself in the position of coming before you and having someone like you say to me, “Let me get this straight, Mr. Secretary. We’ve just had a chemical weapons attack upon our cities or our troops, and we’ve lost several hundred or several thousand, and this is the information, which you had at your fingertips...and you did what? You did nothing?” Is that a responsible activity on the part of the Secretary of Defense? And the answer is pretty clear.

—Former secretary of defense
William Cohen, testifying
before the 9/11 Commission
about the decision to strike
a Sudanese factory in 1998

We are entering a new age of preventive war. The emergence of mass-scale suicide terrorism, the proliferation of weapons of mass destruction, and the loosing of rogue states from Cold War constraints are leading nations—and not just the United States—to embrace the temptations of preventive military action. The official rhetoric, in Washington and elsewhere, is couched in the more acceptable language of preemption, but there can be no mistaking the growing acceptance of preventive uses of force.¹ While this is in some ways an understandable, and perhaps even inevitable, development, it is one that threatens to undermine coordinated attempts to battle terrorists and contain rogue states, and will render the United Nations even more irrelevant in coping with such threats than it already is.

If we are in fact reaching the end of an era dominated by traditional notions of deterrence and facing the rise of a new age of prevention, then it is imperative to consider how this situation came about and, more importantly, how to govern the use of force in such a dramatically changed world. Otherwise, it is too easy to envision a future where nations simply resort to raw self-help with little pretense of order and even less possibility for international institutions to bind the international community with a sense of common purpose. In turn, the anarchy that is the fundamental condition of international life will become more dominant than at any time since the collapse of the League of Nations and undermine international cooperation at the very moments when it will be needed most.

Of course, preventive war, violent intervention in the affairs of sovereign states, and forced regime change (all of which can be described more generally as discretionary uses of military force) are not new. While in the modern era these have largely been considered unsavory and even illegal tools of statecraft, nations have resorted to their use when their leaders believed their interests dictated it, such as Imperial Japan’s preventive attack on the U.S. fleet at Pearl Harbor in 1941.

Likewise, it was an undeniable reality of the Cold War that the United States and the Soviet Union breached the sovereignty of other states and even effected violent regime change in their spheres of influence as a means of policing and expanding their respective coalitions. Still, the international

community during the Cold War strongly professed adherence to a norm against such actions, a presumption so powerful that even the two mightiest nations on earth felt the need to show their respect for it in principle even when they disregarded it in practice. Both Moscow and Washington dressed their actions in veils of legitimacy regarding “fraternal assistance” and “self-defense,” even as they crushed rebellions and removed hostile governments.

But they never sank (at least publicly) to the moral poverty of the ancient Athenians on the island of Melos during the Peloponnesian War. The Athenians told the militarily helpless Melians (whom they would later massacre) that there was no need to trifle with arguments about justice or rights. Rather, they insisted that Melos must submit to Athenian rule because it was the nature of things that “the strong do what they can and the weak suffer what they must.” Moscow or Washington could have easily dictated similar terms to the targets of their interventions but instead clothed their actions in legalistic language that ironically honored the norm against discretionary uses of force even as it was being violated.

The idea that the world is shifting away from these Cold War norms toward a greater acceptance of discretionary uses of force may seem an odd claim given the international fury directed at the policies of the Bush administration, which are fundamentally preventive in nature despite attempts to portray them otherwise. The “Bush Doctrine” was enunciated in the 2002 *National Security Strategy of the United States of America*, which describes a strategy of prevention with such unapologetic candor that some critics have derided it as little more than a barely veiled justification for the creation of an American empire in which any state or actor resisting U.S. hegemony would suffer Washington’s wrath. The 2003 American-led invasion of Iraq—the Bush Doctrine in action—served to confirm

the worst fears of the administration’s critics, as American forces rolled into Baghdad after the expiration of the president’s ultimatum that the Iraqi regime, in effect, either surrender or be destroyed. The Americans, it seemed, had arrived at Melos...via Baghdad.

And yet, as two American scholars recently noted, despite often hyperbolic criticism of the invasion of Iraq, “a mounting body of evidence suggests that a significant number of states are beginning to embrace the Bush Doctrine’s underlying logic of ‘preemption,’ which seems a great deal like preventive war, despite their initial hostility to the Bush Doctrine and continuing widespread opposition to the [2003] Iraq war.”² This is a puzzle that needs explaining. Are other states seizing on the American example out of opportunism, or even just self-defense? This is a central accusation of critics who have charged that for many reasons, U.S. policies will “invite imitation and emulation, and get it.”³

To claim, however, that the United States (or any other nation, for that matter) is leading a change in international norms is to confuse cause and effect. Analyses that trace these developments to U.S. policies after 2001 cannot explain striking changes in beliefs about the use of force on the part of other actors in the international community over the past decade. These changes are characterized by the rejection of traditional notions of absolute state sovereignty, a steep erosion of faith in the concept of deterrence, growing concern over the spread of weapons of mass destruction (WMD), and the demonstrated potential of catastrophic terrorism. While the terrorist attacks against the United States in September 2001 spurred a greater acceptance of preventive violence, the preconditions for the overturning of old notions about force and the emergence of new norms regarding prevention were in place long before the first airliner ever struck the Twin Towers.

It is true, however, that this collapse of previous norms and the transition to a new age has accelerated and become more obvious since 9/11. Political scientist Stephen Krasner warns that if a series of nuclear terrorist attacks were to strike three or four cities concurrently in the developed world, “conventional rules of sovereignty would be abandoned overnight,” and preventive strikes, including “full-scale preventive wars” without even the pretense of United Nations approval would become accepted practices.⁴ Krasner is correct, but the flaw in his prediction is timing: much of what he sees happening in the future is happening now. New norms are already emerging, even if new rules to govern them have not yet coalesced.

These changes are due to the cumulative and corrosive effects of a series of frightening, even sickening, events that have been inexorably altering the way the world thinks about security. Since the Cold War’s end, and particularly in the past few years, we have seen a parade of atrocities: in London and Madrid, bombings of public transport; in the Middle East, beheadings broadcast on the Internet; in Russia, mass hostage takings in a hospital, a theater, and even an elementary school in the small town of Beslan (which resulted in a botched rescue and the butchering of scores of Russian schoolchildren). These outrages followed a decade immediately after the Cold War darkened by campaigns of rape, ethnic cleansing, and even genocide in Europe and Africa. The nuclear clock, once slowed by the Cold War’s end, has been set ticking again by the North Korean nuclear program, as well as by the evident intention of Iran’s extremist mullahs to become members of the nuclear club.

It is small wonder that peoples and leaders in many nations show greater unwillingness to tolerate risk in a world seemingly threatened by outright barbarism. Successive atrocities have strained their patience with states or groups that seem to respect

neither law nor custom, nor basic human decency, as well as with international institutions that appear impotent at best and obstructionist at worst. If these frustrations deepen, in the future international order may well be secured not by laws or institutions or even by “coalitions of the willing,” but rather (in the words of a British general) by “coalitions of the exasperated.”⁵

How did we get to this point, and where do we go from here?

Prologue: Humanitarian Intervention

The belief that the international community or its members could resort to force even if it meant breaching the sovereignty of a recognized state did not originate as a response to terrorists or proliferators after September 2001. Rather, the foundations for the new age of prevention can be found in the failures of the international system of the 1990s.

As the Cold War waned, the superpower coalitions began to disengage from involvement in the affairs of smaller nations, often leaving instability and uncertainty in their wake. As the threat of nuclear war receded, civil war, mass rape, starvation, and genocide came to the fore. The collapse of order and the human suffering it engendered repeatedly challenged the international system. The performance of the United Nations in this period was dismal even by the reckoning of its supporters, and its failures were bound to have a profound impact.

The two most important cases in point were the 1994 genocide in Rwanda and the attempted genocide in Kosovo five years later. In Rwanda, the world organization’s paralysis—induced in no small part by the initial unwillingness of U.S. and British officials even to speak the word “genocide,” lest it trigger a costly and risky obligation to intervene—cost thousands upon thousands of lives, and raised fundamental questions about its capacity to deal with such challenges. When genocide loomed in Kosovo, the United States and its NATO allies (to

some degree chastened by their failure to stop the carnage in Rwanda) did not wait until it was too late, and acted without the Security Council's approval rather than risk a Russian veto.

In 1999, Secretary General Kofi Annan acknowledged the damage done by these crises. After Kosovo in particular, he evidently sensed that important members of the international community might have crossed a threshold. Annan bowed to new realities by embracing (within carefully defined limits) the principle that states could at times interfere in the internal affairs of others: "This developing international norm in favor of intervention to protect civilians from wholesale slaughter will no doubt continue to pose profound challenges to the international community.... But it is an evolution we should welcome."⁶ Such a norm, Annan admitted, could even be a deterrent: "If States bent on criminal behavior know that frontiers are not the absolute defense and if they know that the Security Council will take action to halt crimes against humanity, they will not embark on such a course of action in expectation of sovereign impunity."

Ironically, some NATO nations agreed to participate in the Kosovo operation only because they regarded it as a tolerable exception to existing international norms.⁷ But the translation of this "exception" into a norm in itself became more evident two years later, when the Canadian-sponsored International Commission on Intervention and State Sovereignty published its report. The authors went even further than Annan, declaring that the international community not only *could* act during humanitarian disasters, but that it had a positive *responsibility* to do so. The commission's co-chair, former Australian foreign minister Gareth Evans, later alluded to the soul-searching that produces such changes in norms, noting that it "took us most of [the 1990s] to re-learn that war can be a progressive cause: that in some circumstances, threatened genocide conspic-

uous among them, military intervention is not merely defensible, but a compelling obligation."⁸

The commission (composed of a dozen noted political and intellectual figures from around the world) argued that this "responsibility to protect" is "an emerging international norm, or guiding principle of behavior for the international community of states," and that over time it could even become customary international law.⁹ And in a prescient warning, the commission noted that the repeated inability of the United Nations to act effectively, coupled with successful interventions outside of its auspices, would eventually erode its stature and credibility.

The emergence of this new norm of intervention led some to the further conclusion that if sovereignty can be violated to *stop* the murder of thousands, it can also be violated to *prevent* such disasters—including terror attacks. For example, Lee Feinstein (a former Clinton administration State Department official) and the Princeton legal scholar Anne-Marie Slaughter have argued for a "duty to prevent" as a corollary to the "duty to protect." They claim there is nothing "radical" in such a proposal, which "simply extrapolates from recent developments in the law of intervention for humanitarian purposes—an area in which over the course of the 1990s old rules proved counterproductive at best, murderous at worst."¹⁰

Proliferation and Prevention

By the end of the 1990s, it was clear that humans wielding machetes and machine guns were more likely to inflict mass death than intercontinental nuclear missiles. But even as the threat of global nuclear war faded, new fears grew about the uncontrolled spread of nuclear arms in a world unmoored from the paradoxical security of the Cold War's strategic nuclear standoff (and from previously strict Soviet control of nuclear technology and components among its friends and clients). Like the debate on

intervention, reconsideration of the problem of proliferation gained a new momentum after 9/11, but thinkers and policymakers had begun to grapple with these changes well before.

The question of coercive nonproliferation, for example, long predates current debates. In 1993, the historian Marc Trachtenberg wrote:

The idea that the international community has a right to intervene, albeit in exceptional cases, in the internal affairs of independent states—that sovereignty is in important ways limited by the existence of an international community—has suddenly become widely accepted. In particular, it is now often argued that the world community has a right to prevent countries like Iraq, Libya, and North Korea from developing nuclear capabilities—by force if necessary, many would add.¹¹

A year earlier, MIT professor John Deutsch (who was later appointed CIA director under President Clinton) advocated serving notice to would-be proliferators that they could well face the possibility of “multilateral, and in exceptional cases, unilateral military action.”¹² In 1995, the foreign policy analyst Michael Mandelbaum made essentially the same point, warning that stopping the spread of nuclear weapons to places like Iraq and North Korea “may ultimately require destroying those states’ nuclear programs by force.” He also noted that such actions would require the American public to embrace the concept of preventive war, which it had never been asked to do, and that the “next Hiroshima”—that is, a nuclear attack on U.S. territory—“could create in American public opinion a consensus in favor of preventive war to keep the bomb out of the hands of rogue states.”¹³ For many Americans, it seems, the deaths of nearly three

thousand people in a single day of terrorist attacks was enough to qualify as Mandelbaum’s “next Hiroshima.”

Debates related to, but not directly centered on, preventive war increased in intensity in the late 1990s, as Saddam Hussein’s continued defiance of U.N. arms inspectors raised fears that he had reconstituted his WMD programs. In 1998, President Clinton gave a speech that just as easily could have been given by George W. Bush in 2003:

Now, let’s imagine the future. What if [Saddam Hussein] fails to comply, and we fail to act, or we take some ambiguous third route which gives him yet more opportunities to develop this program of weapons of mass destruction and continue to press for the release of the sanctions and continue to ignore the solemn commitments that he made? Well, he will conclude that the international community has lost its will. He will then conclude that he can go right on and do more to rebuild an arsenal of devastating destruction. *And some day, some way, I guarantee you, he’ll use the arsenal.* And I think every one of you who’s really worked on this for any length of time believes that, too.¹⁴

For a variety of reasons, notably domestic political troubles and disarray in the Security Council, Clinton never carried out this implied threat. Nonetheless, in a bipartisan vote, Congress passed, and Clinton signed, the 1998 Iraq Liberation Act, which made it “the policy of the United States to support efforts to remove the regime headed by Saddam Hussein from power in Iraq and to promote the emergence of a democratic government to replace that regime.” (The act, however, only “supported” such efforts by the Iraqi opposition and was notably silent on the question of the use of American force.)

In all this, however, there was little in the way of a systematic examination of the question of preventive war in general, as concern centered specifically on the nagging problem of Saddam Hussein. The fact that removing Saddam would have constituted a preventive war was elided because the war would have been justified as enforcing U.N. mandates and not as the preventive removal of a direct threat to the United States or its allies. A more thorough analysis of the question would occur only after one of the most destructive terrorist attacks in history.

The Impact of 9/11

Before 2001, terrorism was viewed (at least in the United States) as largely a police matter rather than as an international security issue. As former secretary of state George Shultz later recalled, during the 1980s “we didn’t really understand what motivated the terrorists or what they were out to do.”¹⁵ In part, this was because the non-state nature of terrorist organizations did not fit into the state-centric image of the world held by policymakers, who viewed international relations as a matter between states; terrorism, by contrast, was viewed as a criminal act perpetrated by individuals.¹⁶ This changed with al-Qaeda’s attacks on New York and Washington in 2001. In the space of minutes, terrorism changed from a law enforcement problem to an issue of war and peace.¹⁷ America’s European allies apparently agreed: at a NATO meeting the day after September 11, NATO representatives invoked Article 5 of the Atlantic Charter, declaring that the attack against the United States was an attack on all members of the alliance. This was a dramatic statement, as Article 5 was originally meant to be triggered in the event of a Soviet invasion and had never before been implemented.

The perception of terrorism as a new kind of threat began to coalesce quickly, not least because September 11 was preceded by ever bolder terrorist attacks, most of which were the product of movements like

al-Qaeda. These included the first attempt to bring down the World Trade Center in 1993, the car bombings of U.S. embassies in Africa in 1998, the failed plan to blow up Los Angeles International airport in 1999, the suicide attack against the USS *Cole* in Yemen in 2000, an Algerian terrorist hijacking meant to crash an airliner into the Eiffel Tower in 1994, and a 1999 plot to bomb Jewish neighborhoods in Canada.¹⁸ With 9/11, however, terrorism finally came to be seen not as a disorganized series of horrible criminal acts, but as a coherent means of warfare, “the method of choice,” as George Shultz has put it, “of an extensive, internationally connected ideological movement dedicated to the destruction of our international system of cooperation and progress.”¹⁹

Treating terrorism as a protracted war rather than an international law enforcement issue has deep ramifications. It implies that the mechanisms of law enforcement, with their lengthy procedures and unavoidable risks that criminals might somehow go free, are unacceptable given the magnitude of the potential destruction. This in turn pushes aside the presumption of innocence in favor of a risk-minimizing assumption that rogue regimes and terrorists intend to do harm and will in fact do so unless stopped. British prime minister Tony Blair expressed a common view a year after the Iraq invasion:

From September 11th on, I could see the threat plainly. Here were terrorists prepared to bring about Armageddon.... And my judgment then and now is that the risk of this new global terrorism and its interaction with states or organizations or individuals proliferating WMD, is one I simply am not prepared to run. This is not a time to err on the side of caution; not a time to weigh the risks to an infinite balance; not a time for the cynicism of the worldly

wise who favor playing it long. Their worldly wise cynicism is actually at best naiveté and at worst dereliction.²⁰

This unwillingness to tolerate risk underlies debates about future strategies, as it pits traditional notions of deterrence against calls for a more active defense.

Fading Faith in Deterrence

The emergence of large-scale suicide terrorism is a challenge to entrenched beliefs about deterrence and rationality in international conflict. Coupled with the reckless and defiant attitude of potential rogue proliferators, some argue that it is now pointless—or worse—to speak of traditional notions of deterrence. “It is dangerous,” the Georgetown political scientist Robert Lieber wrote in 2002 with regard to Iraq, “to rely on assumptions about containment and deterrence developed in response to a very different set of circumstances that prevailed between the United States and the Soviet Union during the four decades of the cold war.”²¹ Other analysts as well have noted that in many nations classical notions of deterrence and retaliation are “increasingly disparaged and renounced.”²²

The debate over whether to strike terrorists preventively has thus become intertwined with a parallel debate about what to do about rogue nuclear forces, and in particular whether it is acceptable to engage in preventive attacks to neutralize them.²³ These concerns converge in the question of whether to wage preventive war against regimes that may serve as the nexus between terrorist organizations and weapons of mass destruction, which was the primary U.S. argument for invading Iraq.

Faced with enemies schooled in a culture of martyrdom, or regimes led by delusional leaders, it is not difficult to see why assumptions of rationality—the very cornerstone of deterrence—no longer persuade. Some call for abandoning the concept,

which critics contend is based on ethnocentrically Western notions of rationality and reasonableness, whereas likely enemies may operate under the influence of distorted information (or other unpredictable influences, like drugs) and may value transcendental goals more than their own lives.²⁴

These concerns are closely tied to claims that the world now faces a qualitatively new kind of danger in leaders and organizations prone to high-risk strategies and whose willingness to kill indiscriminately means that the only prudent course regarding their attempts to gain WMD is to assume that “possession equals use,” and therefore to act against them as soon as possible.²⁵

A related objection is that trusting in deterrence against rogue states and terrorists may come down only to trusting in the sanity of a single person. While the president of the United States and the secretary general of the Soviet Communist Party could both trigger mind-boggling levels of nuclear destruction, each side had bureaucratic and military checks in place to ensure that a single madman could not initiate an apocalypse. Do such checks exist in North Korea to restrain a leader described by some who have met him as a “vain, paranoid, cognac-guzzling hypochondriac?”²⁶ Would a nuclear-armed Saddam Hussein have been any less reckless than the one who rained Scuds on Israel? Osama bin Laden did not hesitate to murder over three thousand people in a day; would he be more reluctant to kill three million? No one really knows, and uncertainty makes preventive action seem more attractive than trusting in the reason, sanity, or values of a particular leader.

Finally, because terrorists and rogues are fundamentally opponents of the international status quo, they do not have a vested interest in its stability. Indeed, they may actually seek to create crises rather than to resolve them, springing surprises and making daring moves in an effort to alter or transform the system, as North Korea did with its sudden and risky announcement

that it had acquired nuclear weapons, or as al-Qaeda did with its surprise attack on 9/11. This unreliability and unpredictability provides a strong incentive to strike preventively rather than to trust in deterrence, or in unverifiable agreements, or in negotiation and diplomacy—a path particularly discredited by long years of duplicitous and cynical Iraqi and North Korean behavior—and especially in the unproven deterrability of terrorists who believe that engaging in mass murder and instigating a global religious war will secure them an eternity in paradise.

Perspectives on Preemption and Prevention

Eroding faith in deterrence and a movement toward more unilateral preemptive or preventive policies spreads with each successive atrocity. As the American scholars Peter Dombrowski and Rodger Payne put it, “In the wake of the horrible 9/11, Madrid, and Beslan terrorist attacks, national leaders are more and more declaring their disinterest in absorbing such strikes and then finding and prosecuting the perpetrators after the fact.”²⁷ The French analyst Francois Heisbourg noted in 2003 that “there are signs that preemption can and has already begun to be incorporated into other countries’ national defense strategies.”²⁸

Despite the row between the United States and some of its allies over Iraq, many European states (if not necessarily their populations) supported the U.S.-led invasion. This may reflect the fact that, in the words of one European observer in 2003, they “have gone through a thought process very similar to Washington’s,” concluding that pre-9/11 security strategies are simply outdated.²⁹ Tony Blair’s 2004 speech on the anniversary of Operation Iraqi Freedom is representative of this sea change: “Already, before September 11th the world’s view of the justification of military action had been changing.... For me, before September 11th, I was already reaching for a different philosophy in international relations from a tradi-

tional one that has held sway since the treaty of Westphalia in 1648; namely that a country’s internal affairs are for it [to decide] and you don’t interfere unless it threatens you, or breaches a treaty, or triggers an obligation of alliance.” This “different philosophy,” according to Blair, rejects deterrence and containment precisely on the grounds that “terrorists have no intention of being contained,” and that “states that proliferate or acquire WMD illegally are doing so precisely to avoid containment.”³⁰

Likewise, even as its members split over the Iraq war only weeks earlier, the European Union in June 2003 released its “Basic Principles for an EU Strategy against Proliferation of Weapons of Mass Destruction,” a document that echoed the anxieties expressed by Washington, London, and other members of the eventual “coalition of the willing” that supported the invasion of Iraq. Weapons of mass destruction, the report notes, “are different from other weapons not only because of their capacity to cause death on a large scale but also because they could destabilize the international system,” which, of course, is exactly what the leaders of rogue states or terrorists would hope they would do. And although the EU document understandably privileges nonviolent solutions to such threats, when “these measures (including political dialogue and diplomatic pressure) have failed, coercive measures under Chapter VII of the UN Charter and international law (sanctions, selective or global, interceptions of shipments and, as appropriate, the use of force) could be envisioned.”³¹

The French government released its own defense White Paper, symbolically dated September 11, 2002, at about the same time the U.S. National Security Strategy was being released in Washington. The French defense minister noted that the new peace in Europe did little to protect France against new, asymmetric threats. This in itself is scarcely remarkable; what is noteworthy is the proposed response:

Outside our borders, within the framework of prevention and projection-action, we must be able to identify and prevent threats as soon as possible. Within this framework, possible preemptive action is not out of the question, where an explicit and confirmed threat has been recognized. This determination and the improvement of long range strike capabilities should constitute a deterrent threat for our potential aggressors, especially as transnational terrorist networks develop and organize outside our territory, in areas not governed by states, and even at times with the help of enemy states.... Prevention is the first step in the implementation of our defense strategy, for which the options are grounded in the appearance of the asymmetric threat phenomenon.³²

While the French use of the term “prevention” also includes the use of “preventive” diplomacy and other means, the document clearly shows an increased interest in anticipatory and discretionary action. Indeed, the language of the White Paper was so blunt that the French government quickly had to go on record to deny that it had abandoned nuclear deterrence in favor of preventive nuclear strikes against rogue nuclear arsenals.³³

Even the Vatican changed its position in 2004. The late Pope John Paul II’s foreign minister, Archbishop Giovanni Lajolo, in response to a question on this issue, said, “Certainly there is the need for prompt intervention [under U.N. auspices], indeed prevention of acts of terrorism,” an answer that at the time represented a shift in the Holy See’s previously firm position against discretionary military action.³⁴

Australian prime minister John Howard has observed: “It stands to reason that if you believe that somebody was going to launch an attack on your country, either of a conventional kind or a terrorist kind, and you

had a capacity to stop it and there was no alternative other than to use that capacity, then of course you would have to use it.”³⁵ His government has also called for the U.N. Charter to be changed to permit “preemptive” action against terrorists, although Canberra’s staunch support for the U.S. action against Iraq—Australia was one of only four nations to contribute military forces—suggests that its understanding of “preemption” is similar to the rather loose American interpretation of the term.³⁶ It is a position that reflects mainstream Australian sentiment since 9/11, especially after the deaths of dozens of Australians in the 2002 al-Qaeda terror attack in Bali.³⁷

The Japanese face a particular problem due to their proximity to an openly hostile rogue proliferator, and this has raised serious questions at least of preemption, if not prevention. In response to a question from a Japanese legislator about North Korea, Shigeru Ishiba, director of the Japan Defense Agency, said in January 2003: “If North Korea expresses the intention of turning Tokyo into a sea of fire and if it begins preparations [to attack], for instance by fueling [its missiles], we will consider [North Korea] is initiating [a military attack]....”³⁸ Foreign Minister Yoriko Kawaguchi, present at the same meeting, agreed. Ishiba later stressed that Japan’s “Peace Constitution” did not require complete docility in the face of danger: “Just to be on the receiving end of the attack is not what our constitution had in mind.... Just to wait for another country’s attack and lose thousands and tens of thousands of people, that is not what the constitution assumes.”³⁹ Ishiba reiterated this point a month after his initial comments, saying that it would be too late to act if North Korean missiles were already on their way, and that preemption would be “a self-defense measure.”⁴⁰

Ishiba later backed away from these statements, saying that Japan would not use its own forces against North Korea, but would rely on U.S. forces to strike back in

the event of hostilities.⁴¹ The debate continues, and as a 2003 analysis pointed out, there are many in Japan arguing for “jettisoning military minimalism”; more important, such figures “are no longer considered extremists or militarists and, in some cases, include senior officials who, in earlier times, would have been fired for their lack of caution.”⁴² In any case, the Japanese unwillingness to trust the mercurial North Korean regime illustrates how the line between preemption and prevention will be blurred in coming years, as threatened populations show a growing unease with traditional definitions of preemption that require them to wait for unambiguous signs of attack before responding.

Russia has repeatedly reserved the right to engage in both preemptive and preventive action. These claims initially came in the form of a draft Russian defense doctrine published in October 2003 and subsequent statements made by Defense Minister Sergei Ivanov, which were quickly dubbed the Ivanov Doctrine. Ivanov said that Russia could use preventive military force in cases where a threat is “visible, clear, and unavoidable,” and represents “an attempt to limit Russia’s access to regions that are essential to its survival, or those that are important from an economic or financial point of view,” which certainly opened a considerably broad range of possibilities.⁴³ This raised Western eyebrows, and Ivanov later tried to clarify the Russian position at a meeting with NATO defense ministers, implying that Russia’s primary concern was not U.S. missiles five thousand miles away, but terrorists and rogues nearer to its own borders. “The doctrine,” he said, “does not specify any preventive nuclear strikes, it merely implies that Russia retains the right to use military might for prevention, CIS [Commonwealth of Independent States] countries included.”⁴⁴

After the Beslan tragedy in September 2004, Russian officials became more strident. Gen. Yuri Baluevsky, chief of the

Russian General Staff, declared: “As for carrying out preventive strikes against terrorist bases...we will take all measures to liquidate terrorist bases in any region of the world.”⁴⁵ A few days later, President Vladimir Putin affirmed that Russia was “seriously preparing to act preventively against terrorists.”⁴⁶ The rationale, as Russian security analyst Andrei Piontkovsky has argued—essentially echoing Tony Blair’s position—is that terrorists cannot be deterred or contained as those concepts have traditionally been applied, and therefore “can only be counteracted with preventive measures.”⁴⁷

Russian diplomatic and military officials continue to insist that Russia absolutely opposes unilateral actions without U.N. sanction, but this seems hard to square with statements about what Russia believes are its rights regarding terrorists in neighboring states. It is unclear if Moscow has embraced a preventive strategy to the degree Washington has, especially given its relatively poor capacity to project conventional power, but its pronouncements emphasize the Kremlin’s insistence on the possibility of action against sources of instability in former Soviet republics.⁴⁸

France, Great Britain, the United States, and the Russian Federation have all shown an interest in preventive action (although to judge by their diplomatic activities, the French and Russian positions seem to be that such actions might be acceptable only so long as it is not the United States engaging in them). The position of the fifth permanent member of the Security Council is less clear.

China did not support, but did not veto, the authorization of the use of force against Iraq in 1990, nor did Beijing make a serious attempt to head off war between the United States and Iraq in 2003. Indeed, an editorial in one of China’s official newspapers in September 2002 warned Baghdad about “the last chance for Saddam Hussein to deprive the Americans of a legal case against himself,” and two months later China voted for

Security Council Resolution 1441, which was intended, however unsuccessfully, as a last warning of impending but unspecified “serious consequences” should Saddam fail to cooperate with U.N. arms inspectors.⁴⁹

Like other authoritarian states, however, China is allergic to any possibility of interference in its domestic affairs and remains a determined champion—as repressive regimes tend to be—of a strict understanding of sovereignty. Beijing strongly opposed NATO’s action against Serbia, for example, objecting on the grounds that foreign forces had entered a domestic dispute, that NATO had bypassed the United Nations, and that military force had been used to further NATO’s ends.⁵⁰ This represented a more general division between the democracies and authoritarian states, as the Chinese position was supported by the states whose leaders were no doubt able to imagine themselves one day in Serbian president Slobodan Milosevic’s shoes.⁵¹

Since 2001, Beijing has been supportive of the general idea of a global war on terror, but most likely because it is embroiled in its own struggle with Muslim Uighur separatists in western China. The Chinese, like the Russians in their war with the Chechens, no doubt anticipate some insulation from human rights charges if they appear cooperative in a common fight against terrorism, but it is unlikely that they will explicitly accept a new norm of prevention, even if at some point they end up practicing it themselves on their western borders.

In 2003, Kofi Annan, once more trying to keep the United Nations ahead of the innovations put forward by its members, created the High Level Panel on Threats, Challenges, and Change, which released its findings in late 2004. “The Panel’s report,” Dombrowski and Payne dryly note, “offers room for a meaningful discussion between the United States and other UN member states, in large part because it accepts the central claim of the Bush administration that there are circumstances when

preventive action is justified.” Of course, the report’s authors (drawn from a wide range of member states) insist that such action can occur only with the blessing of the Security Council. Although “preliminary indications suggest that there is a long way to go before the membership in general accepts the entire report,” current objections amount to little more than haggling over the document’s details rather than its central conceptions.⁵²

The more crippling flaw is that the report ducks the larger question of how to govern preventive use of force. Its authors sternly reject any redefinition of the charter or the role of the Security Council, a stubborn but not unexpected honoring of tradition that practically guarantees that the report will become a dead letter, while the United Nations is pushed even further to the sidelines.

Anarchy and Order: The Role of the U.N.

As new threats grow and traditional notions of deterrence collapse, many of the most capable states in the international system are moving toward strategies of preventive action. The most pressing question for the international community is not whether to accept this development—it will soon be upon us whether we like it or not—but how to govern it. What are the possible futures in an age of prevention, and what can be done to avert anarchy?

The most worrisome possibility would be the rapid abandonment of international institutions by states strong enough to act on behalf of most of the international community without the consent of the rest. In such a world, the preventive use of force would be essentially ungoverned and ungovernable. It is also an outcome that most resembles the present, in which powerful nations, either alone or with ad hoc coalitions, act to keep international order, stop proliferators, change odious regimes, and extinguish genocidal conflicts. In the long term, this would be the least stable alterna-

tive, because threats to the status quo would likely be dealt with only erratically by the major powers, which would organize the equivalent of international posses and take selective action depending on the interests and beliefs of the coalition of the moment.

This outcome represents a world in which international institutions have lost any ability to control the use of force. Are there other options? The most important question in this regard is whether the new age of prevention will be governed by the United Nations or some other institution, or even by a new set of arrangements.

A renaissance of the United Nations as it is currently constituted is unlikely, not least because the perception that the organization is dysfunctional, or at the least outdated, is now commonplace. This is not a view limited to traditionally skeptical Americans; as Canadian scholar Irving Brecher has written, the United Nations “can be particularly proud of its socio-economic achievements” but “has, in general, performed abysmally on the political, diplomatic, and military fronts.”⁵³ Andrei Piontkovsky dismisses the United Nations and the Security Council: “Who indeed, will... define whether the preventive strike is legitimate, and the extent of its validity [regarding] the actual threat? The Security Council? Has the Security Council ever defined anything?”⁵⁴ (Piontkovsky’s alternative is to have the G-8 step in to decide such matters, which guarantees the participation of the industrial democracies of three continents—while also, of course, ensuring a place at the table for the Russian Federation.) The British historian Robert Skidelsky has pointed out that “the UN system was not set up to deal with the problems posed by rogue and failed states.”⁵⁵ And a decade ago, Stanley Hoffmann wrote that the organization “is simply not equipped to deal with collapsing states or with rulers who systematically violate human rights.”⁵⁶ Nor does the United Nations seem any better prepared today to cope with the addi-

tional problems of mass terrorism and accelerating WMD proliferation.

Defenders might argue that the United Nations itself is not really the problem, but rather the unwillingness of the major powers to use it, with American and British reticence during the Rwandan genocide an indicting example. The United Nations, such reasoning goes, is perfectly capable of taking action against the unholy trinity of humanitarian disaster, proliferation, and terrorism, if only the most privileged states in the Security Council resolve to do so. This requires leadership, and critics of U.S. foreign policy in particular might describe many of the various disasters of the 1990s not as failures of the United Nations, but as failures of American leadership and imagination. “The task,” says Gareth Evans, “is not to find alternatives to the Security Council as a source of authority, but to make the Security Council work better than it has.”⁵⁷

But the bottom line is that those who wish to salvage a role for the current system find themselves supporting the United Nations mostly from a lack of anywhere better to go. As the American legal scholar Anthony Arend has put it, “Policymakers could declare the UN Charter framework dead,” and admit that “charter law is no longer authoritative and controlling.” But to do so, even if it would be “the most intellectually honest approach,” would only bring about a situation in which “many states would rejoice at the funeral and take advantage of such a lawless regime,” and so the system remains the arbiter of force not by choice, but by default.⁵⁸

One remedy to this problem would be not to abandon the United Nations, but to work around it. Stanley Hoffmann has proposed a two-step process for ratifying interventions against clearly “evil” regimes that reinforces a moral order in which decisions about employing force would be made not by a legalistic body like the United Nations, but by an organization based on shared democratic and liberal values. In

Hoffmann's alternative, the first resort in any proposed intervention would be the Security Council. But if the Security Council demurs or is paralyzed, Hoffmann proposes a recourse to a new body, which he calls the Association of Democratic Nations. This would be composed of NATO members and "Asian, African, and Latin American liberal democracies, such as India, South Africa, and Chile, as well as Australia and New Zealand. Only liberal democracies would be admitted as members. If such an association approved a collective intervention to change a regime, it would report its reasons and its decisions to the secretary-general of the UN, and could proceed to act."⁵⁹ Hoffmann's plan is interesting in many respects, but first and foremost because, unlike purely procedural solutions, it addresses the fundamental flaw at the heart of the United Nations: its membership.

There is no way around the reality that the current international order embodied in the United Nations is one in which brutal autocracies can and do thwart the efforts of advanced democracies—and indeed do so even while subjecting the ambassadors of those democracies to grating, high-minded speeches about human rights and international justice. Little wonder that when procedural rigging by some of these nations torpedoed a vote in late 2004 to condemn human rights violations in Sudan's Darfur region, U.S. ambassador John Danforth said with frustration: "One wonders about the utility of the General Assembly on days like this."⁶⁰ Such shameful moments have produced a kind of international case of cognitive dissonance, in which the admirable goals of institutions like the United Nations cannot be squared with a feeling that the inmates may be running the asylum.

A world in which Libya chairs the Human Rights Commission, for example, is a world that makes little sense to many people. (Nor will things improve any time soon, with such champions of liberty as Sudan, Zimbabwe, and China taking their

seats there in 2005.) During the Cold War, such bizarre arrangements could be dismissed as harmless *opera bouffe* in the halls of an essentially powerless organization. But in an age where states like Libya, or worse, now demand that decisions about the use of force against terrorists and madmen must be made collectively, the humor is decidedly lost.

The central dilemma here is that it is inherently illogical to expect democratic nations and their authoritarian enemies to have a shared vision of international community. Dictators cannot be expected to support the overthrow of dangerous dictators any more than regimes run by religious extremists can be expected to approve violations of national sovereignty aimed at the elimination of terrorist groups that share their ideology. As Hoffmann has rightly noted, "Too many states among UN members have bloody domestic records, and they can be expected to block any proposal for a forcible collective intervention to change a regime."⁶¹

If the United Nations cannot bring itself to condemn even the horrors of Darfur because such "naming and shaming" can be stopped by reprehensible regimes eager to escape such censure themselves, how can it be expected to exercise actual force against such regimes in the future? During the 1994 genocide in Rwanda, one of the rotating seats in the Security Council was held by...Rwanda. (There was no move to expel it.)⁶² During the 2003 deliberations about Saddam Hussein's repeated defiance of the council's demands, another of the rotating seats was held by Syria, itself a Baathist dictatorship like Iraq. If the Security Council must contend with such regimes in its midst, how can it ever be expected to govern the international system in a way that will reassure other nations and convince them to forgo their right to self-help?

The United Nations cannot be salvaged as the arbiter of discretionary force in an age of prevention without significant reform to

both its structure and its charter. And salvaged it should be: despite a history of severe, sometimes even buffoonish missteps by its leaders, the organization seeks noble ends and retains a distinct legitimacy in the eyes of many around the world.⁶³ Soldiers have died in its service, attempting to save the innocent and to keep peace and order in corners of the earth that would otherwise have been left to their unhappy fates. To create an alternative institution in competition with it, such as Hoffmann's notional Association of Democratic Nations (or the actual Community of Democracies founded by over a hundred nations in 2000), would only complicate matters, as each member of the new institution would in effect be redefining the original U.N. Charter and their obligations to it, and placing themselves and the remaining U.N. loyalists on a collision course.

How, then, can these contradictions be reconciled so that the United Nations can function effectively as an instrument that can instill fear in, and act against, genocidal dictators, aggressive rogues, and suicidal terrorists? Strict interpretations of international law and of the U.N. Charter no longer have much force or appeal. Worse, attempts to corral violence under a legalistic U.N. regime will only increase the tendency for states and their leaders to think in terms of their own security and values rather than loyalty to a universal institution, a "perverse effect," as the legal scholar Michael Glennon calls it, of the "effort to force a legalist use-of-force system on a world that is not ready for it...."⁶⁴

The reason the world is not ready for a universalist legal order regarding the use of force is that the world is not populated by universally legalist regimes, and that realization points to a difficult, even radical answer.

Embracing Democratic Exceptionalism

Much ink has been spilled in recent years over the question of whether democracies

are inherently less aggressive (at least against each other) than other kinds of regimes. Whether spreading democracy can stop terrorism or bring international peace is not the issue here; the more important question, given the obstinacy of dictatorships when it comes to efforts to keep a just and humane peace among nations, is whether terrorism, genocide, and other such threats can be stopped by anything *but* democracies. While the democracies have much to answer for, recent history nonetheless confirms that illiberal regimes cannot be counted on to act against threats to a liberal order. Accordingly, the membership and the procedures of the Security Council must be changed. What follows is a proposal to that end.

The conceptual foundation of this reform would consist of jettisoning years of hypocrisy and embracing democratic exceptionalism. This means going beyond utilitarian arguments about the inherent peacefulness of democracies, and establishing a principle that they are fundamentally better systems of government that by moral right are empowered to make decisions for the sake of the international community that despotisms may not. This would merely codify what Marc Trachtenberg identified over a decade ago as a "long-term historical trend...toward increasing recognition of *the right of the civilized world* to uphold certain standards of behavior—that states, for example, should not be free to massacre their own citizens or allow their territory to serve as a base for piracy or terrorism."⁶⁵ This would amount to an assertion of democratic supremacy: that regimes chosen by, and accountable to, their own people have rights in the international system that other kinds of regimes do not. No longer would a Canada or Norway or Japan have to justify itself to a Cuba or Burma or Iran, a situation that has long defied common sense and offends even a rudimentary sense of justice.

The structural expression of this affirmation of the supremacy of democracy would

be to close the membership of the Security Council to illiberal regimes—that is, to states whose leaders govern by coercion, are unaccountable to their own people, and who suppress basic human freedoms.

Such a restructuring would amount to a declaration that regimes that violate human rights, threaten international order, and seek ever more lethal technologies will no longer be welcomed in deliberations about whether to use force against regimes that consistently violate human rights, threaten international order, and seek ever more lethal technologies. There is a reason that felons cannot vote or sit on juries, and this jurisprudential principle should now be applied in the international community as well. While this could be derided as discriminatory, the Security Council—with its permanent and unaccountable Big Five—is already inherently and structurally discriminatory. The existence of the veto in particular “makes nonsensical the Charter’s organizing principle of sovereign equality.”⁶⁶

Accordingly, concurrent with this reform of the Security Council’s membership, the veto as it is currently practiced should be abolished. Irving Brecher rightly argues that the structure of the Security Council and the veto are now outdated, and that in an age of rogues and terrorists, “decisions on war and peace are too important to be left to the whims, threats, or machinations of any single member-state.”⁶⁷

The Security Council veto is not necessarily any worse an idea than the veto in a domestic presidential system. It slows intemperate action and allows the five permanent members the ability to act with less fear of being overtaken by resolutions of hostile intent. But it is an absolute veto and cannot be overturned. In a body whose rotating members may include some of the world’s worst regimes at any given moment, this is wise. But if the Security Council were restructured to admit only liberal regimes (perhaps by vote of established democracies that mutually recognize and

accept each other as such), it might be possible to create a mechanism by which a supermajority of the council could defeat the veto of one member. This might be a way out of the paralysis in which the council constantly finds itself, and could open the way for greater unanimity in its decisions.⁶⁸

This would help make powerful democracies, including the United States, more inclined to think of the United Nations as the first resort in times of danger, since its decisions would be the product of deliberation among states like themselves that they would be more likely to trust. No great power will ever abide by a decision it finds utterly unacceptable, but where there is room for compromise, the moral force of a preponderance of voting democracies might have more influence than a five-way chess game among the veto-holders. And while there may always be conflicts with prickly powers like France, disagreements between France and the United States are at least arguments between allies that have each sacrificed lives for the defense of liberty and have earned a greater right to decide questions of international order than thuggish states like Syria or North Korea.

I realize that any radical proposal for reform is unlikely to succeed because of the tautology of the veto (that is, any proposed changes in the nature of the Security Council and the veto will, of course, be vetoed). But what I propose is possible if the United States and the major powers of the world agree to change the charter—and threaten unilaterally to revise their own understanding of their right to self-defense if their demands are not met.

That is, the United States and other countries advocating reform would have to demand that the United Nations change or henceforth issues of international security will be settled outside of New York. America and other like-minded nations might retain their U.N. membership, but they would refuse even to go through the motions of submitting proposed military

actions to the Security Council. (This might even be popular: a recent German Marshall Fund study of European and American attitudes toward the use of force found that Americans by a significant majority value the approval of their main allies more than that of the United Nations, or even NATO, while almost as many Europeans would accept the approval of their chief allies as they would the blessing of the United Nations as sufficient legitimization for action.)⁶⁹ The democratic great powers would withdraw into a twenty-first-century version of the Concert of Europe, with U.N. bureaucrats left to supervise things like literacy and child vaccination programs on whatever budget wealthier states wished to afford them.

The most obvious impediment to this idea can be summed up in five words: the People's Republic of China. How can any such reform take place when the world's largest dictatorship holds a permanent seat in what should be a conclave of democracies? There is no easy answer to this question. The first step would be to defang the veto: if the United States, Britain, France, and even Russia were to agree to limits on the veto, Beijing might see this as a development that it had no choice but to accept. But even this assumes that Russia and France—which exercise diplomatic power in the council far in excess of their actual military or economic capacity only because of their absolute veto—would agree to accept a new, democratically sustained veto. (Britain, it could be argued, “punches above its weight” in international affairs, not because of its veto but because of its unique relationship with the United States and greater willingness to employ its military forces.) But France and Russia should be reminded that their systems of domestic government, like America's, contain similar veto override mechanisms, and it is at least possible that they might accept that their interests would be less threatened by a chamber

composed only of liberal democracies whose voters would be no more unpredictable or emotional than their own.

Here, the United States would have to exercise the boldest kind of leadership. A stated American willingness to abide by such a reformed veto would create palpable pressure on China and other states to follow suit, not only because it would represent Washington's stunning departure from 40 years of precedent, but because it would show an American acceptance of new rules that could actually constrain the use of U.S. power.

One optimistic sign is that China has not opposed what appears to be a recent tendency for the Security Council to act in favor of democracy, as the American legal scholar John Owen has noted:

Is a norm arising calling for the extirpation of illiberal government wherever it is found? Such a norm, of course, would lead to continuous interventions around the world. But so long as China remains illiberal, the Security Council will not adopt that norm. Instead, it seems to have adopted a more limited norm opposing the forcible overthrow of liberal government. The Council is leaving established authoritarian States alone, but acting to restore liberal government where it has been illegally removed.⁷⁰

China may not be opposing this trend because there appears to be a “grandfather clause” for existing dictatorships and, indeed, an assurance that the democracies in a reformed United Nations will not embark on a democratization crusade might be necessary. However, there is no reason for the democracies to accept a retroactive abolition of current U.N. members when it comes to Security Council membership (or, for that matter, seats on committees on human rights or nonproliferation).

In the end, if the other major powers insist on change—another significant assumption, since it would require Russia and France to oppose China, which neither nation has shown itself inclined to do—Beijing would have the choice of accepting its seat in a reformed Security Council or opting out of the U.N. system entirely. If the world's largest country in terms of population withdraws, it could be a mortal blow to the U.N. Charter. But if China defected alone, it could also be the beginning of a long period in which China returned to its pre-1971 status as something of a pariah state. Neither alternative is a happy one, but neither is worse than the collapse of order that will come without reform.

The potentially irresolvable problem of China aside, there are numerous other diplomatic objections that might be raised about redefining U.N. membership and basing it on the nature of regimes, rather than on their mere existence as states. On a purely practical level, the symbolism of closing the Security Council to illiberal states means offending some American friends like Pakistan that are providing significant support—at the moment, anyway—in the struggle against terrorism. (Uzbekistan, for example, recently decided it has heard enough U.S. criticism of its authoritarian ways and now wants the American base there vacated by 2006.) Likewise, drawing a clear line between democracies and dictatorships will be difficult to do, and risks alienating nations in transition. More alarming is that such exceptionalism in the Security Council could end up widening the gulf between the democracies and the countries they hope to shepherd away from authoritarianism.

But the fact is that the United States and its major allies already practice discrimination in organizations like the G-8, NATO, and even the European Union (just ask Russia or Turkey). In these institutions, the democracies have taken the stand that they should take in the United Nations: to join

us in our discussions about administering the global economy and the global peace, you must represent a regime that is like ours. This not only enhances the moral clarity and political coherence of these organizations, it also provides a powerful incentive to the nations that wish to join them. It could be argued, for example, that Russia has not slid further back toward repression, and is not a more illiberal regime, precisely because it wants to keep its place in the G-8, just as other states would hope to maintain their right to sit in a new Security Council.

A second answer to charges of discrimination might be to ask: So what?

At what point do the nations that have created and sustain the liberal international order cease apologizing for insisting on the right to take measures for the stability of that order without having to suffer the presence of the enemies of that same order in their deliberations? Or as George Shultz put it: "If you are one of these criminals in charge of a state, you no longer should expect to be allowed to be inside the system at the same time that you are a deadly enemy of it."⁷¹

None of this is to deny the historical sins, blunders, and even crimes the democracies have committed in the past century in establishing the international system as it exists today. But acknowledging, for example, that Belgium and Japan were once cruel colonial powers does not logically lead to the conclusion that they therefore and in perpetuity, no matter what atonement they make, have no better moral right to intervene against *génocidaires* or to destroy terrorist training camps than the countries that actually produce or support such threats. Nor is the system perfect; the age of prevention should not be a pretext for ensuring the hegemony of a small circle of powers by crushing all challenges to the status quo. But hypothetical fears of imperialism should not be the argument for inaction in the face of tangible dangers.

One final and more immediate objection to all this is that it is irrelevant, because the age of prevention has not arrived and never will. Neither the United States nor its allies, critics will object, have the unlimited capability—or more importantly, the will—to engage in a series of wars to right the world's many wrongs. In the wake of the costs of the ongoing conflict in Iraq, why assume that citizens of the democracies will continue to take up the burdens of preventive action even if the United Nations is changed to allow it? Washington and London, in particular, have been reminded that regime change is a messy, even sordid, business (as it was, for example, in Haiti a decade ago), and it is an open question how many more such complicated operations the American and British publics will approve.

There is no way to tell what level of threat will be required to trigger American public support for another intervention somewhere in the world. As of this writing, a majority of Americans disapprove of President Bush's handling of the war, but the current state of affairs in Iraq probably says little about what measures they might countenance if al-Qaeda once again burrows into a ruling regime as it did in Afghanistan, or if a bizarre leader like Kim Jong Il were to make imprudent or risky threats to use nuclear weapons against American territory.

But to ask if the democracies will support more operations like Iraq is to ask the wrong question. Regime change would doubtless be the very rarest kind of military action in the age of prevention. Totalitarian states like Baathist Iraq, which due to their inability to reform peacefully are likelier candidates for regime change when they become a threat beyond their borders or begin the massive extermination of innocents, are few and far between. Rather, the more common incidents will involve smaller-scale operations resembling the Israeli raid on an Iraqi nuclear reactor in 1981, or the use of covert operations, commandos, or other specialized forces in strikes like the attack on

al-Qaeda operatives in Yemen in 2002.⁷² (Anne-Marie Slaughter, for one, has called for reforms that would allow the United Nations to issue death warrants against dangerous dictators rather than punish innocent civilians in wars to remove them.)⁷³ Even larger operations will not require investments the size of Operation Iraqi Freedom; the commanding general of the U.N. force in Rwanda at the height of the genocide asked for only 5,000 troops.⁷⁴ Likewise, dousing the civil war in Somalia in the early 1990s—a temporary victory, to be sure, and one that unraveled for political, rather than military reasons—took less than 40,000 soldiers.

None of this is to say that any of these actions can be accomplished without complications, unintended consequences, or the deaths of innocent civilians. Friction and confusion are immutable characteristics of military conflict. And without question, it should never be assumed that wars to topple governments, whether on a humanitarian basis or as a preventive campaign against a dangerous regime, will be without risks. But the fact remains that more limited preventive actions or even smaller preventive wars, meant to achieve specific goals (such as destruction of a weapons site or elimination of a terrorist facility) rather than full-scale occupations, are well within the capabilities of the developed democracies, especially if they act together, and can be conducted without undue strain on their societies or their economies. The need to undertake a mission the size of that in Iraq or even Afghanistan will (it is hoped) be rare; in any case, if such actions are undertaken with the approval of a reformed United Nations they might well attract a larger multilateral force that will share the burden.

In the end, objections to reforming the Security Council or the United Nations as a whole risk becoming moot, because they are already being overtaken by events. The wars in Iraq and Afghanistan, and the subsequent occupations, were in fact actions taken by

coalitions of democracies in order to topple hideous governments and place their populations under de facto trusteeships until elections could be held to create freely chosen (if not yet completely independent) governments in both of them.

In Afghanistan, the United States issued an ultimatum to a Neanderthalic regime that was not recognized by the rest of the world (save for Pakistan, which created it), and when the ultimatum expired, the regime was removed and the country put under the administration of a multinational force. In Iraq, the United States, Britain, and their allies made a calculation that the regime in Baghdad had finally become an intolerable threat and again, after an ultimatum, they removed it by force. They have since administered the affairs of Iraq—not always competently, to be sure—with the U.S. coalition the guardian of the Iraqi state until it could be handed to leaders chosen by the Iraqi people. Neither Iraq nor Afghanistan was ever officially called a “trusteeship” or “protectorate,” but if we are to call things by their right name, that is what they were.

Critics may well object that it is pure arrogance to declare certain governments incompetent or dangerous, and then to attack their territory or even remove their leaders. But such objections will not stop the great powers from doing so again when they think they must. It might be better simply to abandon all pretense and accept the reality that there are states that either cannot, or will not, administer their own affairs in a way that is not a danger to their own people or to others. When they must be reckoned with by force, as some of them necessarily will be, such actions should be exercised within the constraints of, and as much as possible subject to, the requirements of a reformed Security Council.

The essential point is that unless the iron tautology of the veto is broken and the composition of the Security Council changed in a way that reflects the growing

wave of global democratization, the United Nations will be doomed, at least as an arbiter of the use of force. If states are going to act on notions of rights and justice in going to war—whether to alleviate suffering or to prevent aggression, terrorism, or other disasters—international organizations must be constituted by members who believe that they have the moral standing to levy judgment on each other. They also must be able to act in concert, and no matter how much unseemly hissing and catcalling may sometimes take place between democracies, there is an essential bond of trust between them that makes this cooperation possible.

This kind of trust will be essential to governing the use of force in an age of prevention, because without it, the temptation to self-help will become almost irresistible, especially as the formal institutions of international order become increasingly divorced from how international order is actually maintained. Michael Glennon has put it best in comparing the two “universes” of conflict resolution in the modern world and his description is worth considering at length:

In one universe a *de jure* regime continues the traditional pacific dispute settlement process established by the Charter.... In the other universe is a *de facto* system. It is a geopolitical regime over which the strong preside. It bears little resemblance to the formal regime of the Charter. Its ordering principle is not consent but power. Its rules are made not by students' international law journals but by NATO activation orders and the Pentagon's rules of engagement. Its membership is selective. Its participants are the like-minded states of NATO and other Western democracies...[that] by and large trust one another because they share the same values. They support the jaw-jawing of the *de facto* regime because they

recognize that when pacific dispute settlement fails, it is they who will have to do the heavy lifting: When international order is threatened ...they are the ones to restore it.⁷⁵

This de facto order exists because the regimes in it realize their democratic and humanistic values cannot be served by international institutions that are infested by some of the worst enemies of democracy and humanity. It is time at least to acknowledge, if not solve, this problem.

The Next Step

The dilemma of preventive war is here to stay. There are still too many places that stand apart from civilization—where human rights are not respected, where dictators who answer to no one rule with the whip of violence and intimidation, where fanatics brew plots against the international status quo and seek the weapons that could bring them to fruition. Too many “states” are little better than criminal enterprises, ethnic killing zones, and havens for terrorists and other barbarians. They are threats both to their own people and to international order. The Westphalian notion of sovereignty has already been breached by the necessity for humanitarian intervention, and now the international community must take the next step and legitimize action not only to prevent terrible regimes from annihilating their own people, but also to coordinate preventive action against such regimes when they seek to undermine international order.

Current international norms and legal statutes are outdated, with international institutions consequently incapacitated in the face of these new dangers. Changes—legal, institutional, normative—are necessary, and given the dangers of the new century, a dramatic reinterpretation of traditional notions of sovereignty and of the traditional prohibitions on the use of force may not be such a bad thing after all.

The alternative is a world where international order will depend only on the willingness of powerful states to secure it, either alone or together. At first glance, this might seem an arrangement that favors the interests of the United States, the most powerful nation the world has ever seen. But it cannot be in America’s interest, or anyone else’s, to live in a world where order, to say nothing of justice, is administered in an anarchic environment where firm alliances against civilization’s common enemies break down into temporary marriages of convenience. Such improvised arrangements will solve problems only fitfully, and probably only once they reach crisis proportions. No matter how noble their intentions, if powerful states take it upon themselves to act (whether alone or in packs) to extinguish potential dangers, they run the risk not only of reprising the arrogant sins of ancient Athens but also of coming into conflict with each other, with catastrophic results. ●

Notes

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1. “Preemption,” or acting first to spoil the attack of an enemy clearly preparing to strike, has long been an acceptable form of self-defense. “Prevention,” on the other hand, involves striking an opponent who may not yet pose an obvious danger based on calculations about whether it will pose a threat in the future and whether future military circumstances will be as advantageous later.

2. Peter Dombrowski and Rodger A. Payne, “Preemptive War: Crafting a New Norm,” paper presented at the International Studies Association Annual Meeting, Honolulu, Hawaii, March 1–5 2005, p. 14.

3. Paul Schroeder, “Iraq: The Case Against Preemptive War,” *American Conservative*, October 2002, http://www.amconmag.com/10_21/iraq.html.

4. Stephen Krasner, "The Day After," *Foreign Policy*, January/February 2005, pp. 68–69.
5. Interview with Maj. Gen. Peter Williams, UK Army Reserve, Moscow, April 7, 2005.
6. This and subsequent references to this speech are from Kofi Annan, speech to United Nations General Assembly, 54th session, September 20, 1999 (A/54/PV.4), official record.
7. Francois Heisbourg, "A Work in Progress: The Bush Doctrine and Its Consequences," *Washington Quarterly*, vol. 26 (spring 2003), p. 81. But, as the legal scholar Michael Glennon later noted, these arguments about "exceptions" were more like wishful thinking. See Michael J. Glennon, *Limits of Law, Prerogatives of Power* (New York: Palgrave, 2001), p. 185.
8. Gareth Evans, "The Responsibility to Protect: When It's Right to Fight," <http://www.progressive-governance.net>.
9. Some legal scholars go even further. In defending the 1989 U.S. invasion of Panama, Anthony D'Amato has argued that "human rights law" not only allows, but "*demand*s intervention against tyranny" (emphasis added). See Anthony D'Amato, "The Invasion of Panama Was a Lawful Response to Tyranny," *American Journal of International Law*, vol. 84 (April 1990).
10. Lee Feinstein and Anne-Marie Slaughter, "A Duty to Prevent," *Foreign Affairs*, vol. 83 (January/February 2004), pp.149–50.
11. Marc Trachtenberg, "Intervention in Historical Perspective," in *Emerging Norms of Justified Intervention*, ed. Laura W. Reed and Carl Kaysen (Cambridge, MA: American Academy of Arts and Sciences, 1993), p. 15.
12. John M. Deutsch, "The New Nuclear Threat," *Foreign Affairs*, vol. 71 (fall 1992), p. 133.
13. Michael Mandelbaum, "Lessons of the Next Nuclear War," *Foreign Affairs*, vol. 74 (March/April 1995), pp. 24, 37.
14. The address was to the Pentagon and the Joint Chiefs of Staff on February 17, 1998 (emphasis added). Available at <http://www.cnn.com/ALLPOLITICS/1998/02/17/transcripts/clinton.iraq>.
15. George P. Shultz, "An Essential War," *Wall Street Journal*, March 29, 2004.
16. The CIA, for example, agreed that if a government had issued something akin to Osama bin Laden's *fatwa* against the United States, it would be a declaration of war, but since it was an individual, it was only propaganda. See Richard Schultz, Jr., "How Clinton Let al-Qaeda Go," *Weekly Standard*, January 19, 2004.
17. President Bush later recalled what he was thinking when told of the World Trade Center attack: "They had declared war on us, and I made up my mind at that moment that we were going to war," an instinct shared by many top U.S. leaders that day. See Bob Woodward, *Bush at War* (New York: Simon and Schuster, 2002), p. 15.
18. There were other unrelated incidents that sharpened public fears of terrorism as well, like the March 1995 nerve gas attack in the Japanese subway system and the Oklahoma City bombing a month later, which until 2001 held the record as the worst act of terrorism within the United States.
19. Shultz, "Essential War," p. 18.
20. Government of the United Kingdom, "Prime Minister Warns of Continuing Global Terror Threat," March 5, 2004, <http://www.number-10.gov.uk/output/Page5461.asp>.
21. Robert J. Lieber, "Foreign-Policy 'Realists' Are Unrealistic on Iraq," *Chronicle of Higher Education* online, October 18, 2002.
22. Dombrowski and Payne, "Preemptive War," p. 14.
23. Secretary of Defense William Perry warned almost a decade ago of "a future threat that a rogue state, that may be impossible to deter, will obtain ICBMs that can reach the United States." Quoted in Robert Litwak, "The New Calculus of Preemption," *Survival*, vol. 44 (winter 2002/03), p. 56.
24. Keith Payne, *The Fallacies of Cold War Deterrence and a New Direction* (Lexington, KY: University of Kentucky Press, 2001), p. 87. See also William C. Martel, "Deterrence and Alternative Images of Nuclear Possession," in *The Absolute Weapon Revisited: Nuclear Arms and the Emerging International Order*, ed. T. V. Paul, Richard J. Harknett, and James J. Wirtz (Ann Arbor: University of Michigan Press, 2000).
25. M. Elaine Bunn, "Preemptive Action: When, How, and to What Effect?" *Strategic Forum*, U.S. National Defense University, no. 200 (July 2003), pp. 2–3.
26. "Profile: Kim Jong-Il," *BBC News World Edition* online, July 31, 2003, <http://news.bbc.co.uk/2/hi/asia-pacific/1907197.stm>.

27. Dombrowski and Payne, "Preemptive War," p. 14.
28. Heisbourg, "Work in Progress," p. 83.
29. "The belief that pre-9/11 defense strategies do not correspond to new security threats—threats not only to the United States but also to Europe—is reflected in the national security documents of the key European states" (Tomas Valasek, "New Threats, New Rules: Revising the Law of War," *World Policy Journal*, vol. 20 [spring 2003], p. 20).
30. "Prime Minister Warns of Continuing Global Terror."
31. European Union, "Basic Principles for an EU Strategy against Proliferation of Weapons of Mass Destruction," June 16, 2003, [http://europa-eu-un.org/articles/en/article_2478_en.htm](http://europa.eu-un.org/articles/en/article_2478_en.htm).
32. Government of France, Ministry of Defense, "2003–2008 Military Program," <http://www.defense.gouv.fr/english/files/d140>.
33. Elizabeth Bryant, "Paris Denies Ending Deterrence Strategy," UPI wire, October 27, 2003.
34. John Allen, "Vatican Shifts on Preventive War," *National Catholic Reporter*, January 23, 2004, p. 7.
35. Robert Hill, "The UN Charter Is Outdated," *International Herald Tribune* online edition, December 2, 2002.
36. Bunn, "Preemptive Action," p. 6.
37. Gerard Henderson, "World Order—From the Old to the New," *Australian Journal of International Affairs*, vol. 57 (November 2003), p. 481.
38. See Bunn, "Preemptive Action," p. 6; and "Japan 'Can Seek Pre-emptive Strike': Constitution Allows Action If Launch Imminent, Agency Chief Says," *Japan Times*, January 25, 2003, <http://www.japantimes.com>.
39. Quoted in Bunn, "Preemptive Action," p. 7.
40. "Japan Threatens Force against N Korea," *BBC News* online, February 14, 2003, <http://news.bbc.co.uk/1/hi/world/asia-pacific/2757923.stm>.
41. Eric Heginbotham and Richard J. Samuels, "Japan's Dual Hedge," *Foreign Affairs* online author update, March 2003, <http://www.foreignaffairs.org>.
42. Rajan Menon, "The End of Alliances," *World Policy Journal*, vol. 20 (summer 2003), p. 13.
43. Sophie Lambroschini, "Russia: Moscow Struggles to Clarify Stance on Preemptive Force," Radio Free Europe/Radio Liberty report, October 14, 2003.
44. Quoted in Pavel Felgenhauer, "Military Doctrine or Election Manifesto? The Ivanov Doctrine," *Perspectives*, vol. 14 (January-February 2004), p. 1.
45. Steve Gutterman, "Russia Threatens to Strike Terror Bases," Associated Press wire, September 8, 2004.
46. CNN online, "Russia Considers Terror Strikes," September 17, 2004, <http://edition.cnn.com/2004/WORLD/europe/09/17/russia.putin>.
47. Andrei Piontkovsky, "The Pillars of International Security: Traditions Challenged," *Yaderny Kontrol' Digest*, vol. 8 (summer/fall 2003), p. 23.
48. Ivanov made this point explicitly in an interview in 2003. See Svetlana Babaeva, "Rossiia vperve ob'javila o vozmozhnosti primeneniye voennoi sily protiv respublik byvshego Soiuzza," *Izvestia*, October 12, 2003.
49. Quoted in Antoaneta Bezlova, "China's Iraq Stance Pleases US—For Now," *Asia Times Online*, October 10, 2002, <http://www.atimes.com/atimes/China/DJ10Ad06.html>.
50. Bates Gill and James Reilly, "Sovereignty, Intervention, and Peacekeeping: The View from Beijing," *Survival*, vol. 42 (autumn 2000), p. 47.
51. Michael Glennon has pointed out that when Annan gave his 1999 speech in the wake of NATO's Kosovo operation in which he accepted a norm of humanitarian intervention, most proponents of the idea were found among the Western democracies, while the opponents were mostly Latin American, African, and Arab states. See Michael J. Glennon, "Why the Security Council Failed," *Foreign Affairs*, vol. 82 (May/June 2003).
52. Dombrowski and Payne, "Preemptive War," p. 8.
53. Irving Brecher, "In Defence of Preventive War: A Canadian's Perspective," *International Journal*, vol. 58 (summer 2003), pp. 258–59.
54. Piontkovsky, "Pillars of International Security," p. 24.
55. Robert Skidelsky, "The Just War Tradition," *Prospect*, December 2004, p. 31.
56. Stanley Hoffmann, *World Disorders: Troubled Peace in the Post-Cold War Era* (Lanham, MD: Rowman & Littlefield, 1998), p. 185.
57. Evans, "Responsibility to Protect."

58. Anthony Clark Arend, "International Law and the Preemptive Use of Military Force," *Washington Quarterly*, vol. 26 (spring 2003), p. 101.
59. Hoffmann, *World Disorders*, p. 80.
60. Quoted in Robert McMahon, "Human Rights and U.N. Wrongs," *Weekly Standard*, May 23, 2005, p. 19. Criticisms of the human rights records of Zimbabwe and Belarus were also sabotaged.
61. Hoffmann, *World Disorders*, p. 79.
62. Samantha Power, *A Problem from Hell: America and the Age of Genocide* (New York: Perennial, 2003), p. 369.
63. As Anne-Marie Slaughter rightly notes, "when [the United Nations] speaks in unison, it projects moral authority that no individual government can match" ("Mercy Killings," *Foreign Policy*, May/June 2003, p. 72).
64. Glennon, *Limits of Law, Prerogatives of Power*, p. 167.
65. Trachtenberg, "Intervention in Historical Perspective," p. 30 (emphasis added).
66. Glennon, *Limits of Law, Prerogatives of Power*, p. 151.
67. Brecher, "In Defense of Preventive War," p. 259.
68. Former U.N. Secretariat member James Sutterlin has argued for keeping the absolute veto, but limiting its use only to issues under Chapter VII of the charter or, in the case of peacekeeping, Chapter VII and anything involving military force. Since these are the questions on which preventive action would deadlock, I do not see where this solves the problem, but it is at least an argument for limiting the veto. See James Sutterlin, "The Past as Prologue," in *The Once and Future Security Council*, ed. Bruce Russett (New York: St. Martin's, 1997), p. 7.
69. German Marshall Fund, "Transatlantic Trends 2004," p. 15, <http://www.transatlantictrends.org>.
70. John M. Owen IV, "International Law and the 'Liberal Peace,'" in *Democratic Governance and International Law*, ed. Gregory H. Fox and Brad R. Roth (Cambridge, UK: Cambridge University Press, 2000), pp. 382–83.
71. Shultz, "Essential War."
72. Tellingly, Washington warned the Yemenis that it would "take matters into its own hands" if Yemen was unwilling to take action against the terrorists there. See Phillip Smucker, "The Intrigue behind the Drone Strike," *Christian Science Monitor* online edition, November 12, 2002.
73. Slaughter, "Mercy Killings," pp. 72–73.
74. Power, *Problem from Hell*, p. 350.
75. Glennon, *Limits of Law, Prerogatives of Power*, pp. 177–78.