

2007/2008

Lincoln Douglas Debate

Topic Analysis



Writers & Contributors

Cherian Koshy, Jacob Levi, Jon Kwan, Adam Torson

Contributing Editors: Tim Case & Josh Stephens

Managing Editor: Mike Bietz

Publisher: Victor Jih

The logo consists of two overlapping circles, one blue and one cyan, positioned above the word "victory".
victorybriefs
www.victorybriefs.com publishing

Resolved: It is just for the United States to use military force to prevent the acquisition of nuclear weapons by nations that pose a military threat.

Topic Analysis by Cherian Koshy	3
Topic Analysis by Adam Torson	8
Affirmative Evidence.....	16
Realism:	16
General:	16
Institution Theory & Realism:.....	20
AT: Constructivism:	22
Anticipatory Self Defense:	24
Magnitude of the threat justifies Self Defense:.....	24
Possession of nuclear weapons is justification:	29
The Threat is Imminent:	30
The type of regime is an important consideration:	31
Altering the immanence standard is key:.....	32
International Law Bad:	38
International Law Fails to Account for New Realities:	38
U.N. Charter Fails:.....	42
Collective Security Has Failed:.....	47
Strict Adherence to International Law Bad:.....	49
International Cooperation Not Possible – via Realism:	51
The Presumption against Violence is Flawed:.....	53
Moral Obligation to stop Nuclear proliferation:.....	54
U.S. Policy Should Shape World Politics:	56
AT: Deterrence Solves Risk of Nuclear War:.....	58
Proliferation Bad:.....	67
General:	67
Threat of Nuclear Terrorism:.....	69
Nuclear Accidents:.....	76
Nuclear Blackmail:	82
North Korea:	83
Russian “Nuclear Cities”:.....	86
Counter-Proliferation secures U.S. interests:.....	92
Military Force is key:	93
AT: Sanctions ALT:	95
Negative Evidence	96
Humanitarian/Human rights Law:	96
Bush Doctrine Bad:.....	99

No Legal Justification for the Bush Doctrine:.....	99
The National Security Strategy is Abused:	100
AT: Anticipatory Self Defense:	105
International Law Good:.....	108
Reforming International Law is key:.....	108
Necessity Requirement is key:.....	109
Proportionality Requirement is key:.....	111
Proliferation/Deterrence Solves:	114
Soft Power is key/Hard Power Bad:	129
Soft power is key to solve terrorism.....	131
Soft power is essential to the US agenda – it legitimizes hard power which is key to military effectiveness	133
Prevention not Preemption:.....	135
Military Force not Desirable Under Realism:.....	142
Threat Construction:	144
U.S. Hypocrisy:	146
Military Overstretch:	147
Low recruiting trends will kill readiness jeopardizing army force structure.....	148
The United States Army is stretched too thin – any additional deployment could risks collapse	149
Violence and personnel strains make a retention crisis inevitable in spite of recruiting	150
AT: Military Force Solves Terrorism:.....	151
AT: State’s Responsibility to its own Citizens:.....	152
AT: ACCIDENTAL USE OF NUCLEAR WEAPONS.....	153
Securing Current weapons is key:.....	154
U.S. economic incentives Alternative:	155
North Korea:.....	156

Topic Analysis by Cherian Koshy

At the outset, this topic seems relatively straightforward and germane to our current political landscape. At its core, the resolution questions a tenet of international relations theory that is often in dispute: the notion of anticipatory self-defense. Grounded in the traditions of just war theory -- which analyzes how, rather than whether, war can be termed just -- the dispute over a nation's right to protect itself prior to being attacked, is a question that has many possible answers. This analysis serves to overview some possible answers. I have compiled these answers from forms of all types of NFL debate: LD, policy, and public forum, which provide different although relevant perspectives to our considerations on the LD resolution. I will provide an analysis of each of these perspectives with the caveat that there are many more options available under each approach that are beyond the scope of this overview.

I. Just War Antecedent: The Value-Oriented Approach

At a time of barbarian invasions into the Roman Empire, St. Augustine penned *Civitas Dei*, The City of God, in the 4th century and authored a concept of ethics in and of war that has persisted in some form to today's international geopolitical struggles. Christian pacifists had long denounced any notion of war as acceptable so Augustine sought to set out conditions for when the exercise of war was just.

Prussian military theorist Carl von Clausewitz once aptly remarked, "war is a continuation of politics by other means." In the 1995 movie *Crimson Tide* a Russian general opposed to the U.S. has acquired a nuclear weapons facility and plans to attack. The U.S.S. Alabama is sent to intervene with nuclear weapons in order to prevent the attack. This resolution poses a very similar "Clausewitzian" dilemma wherein we are posed with a corpus of military ethics that is awkwardly confronted by the advent of nuclear weapons.

Take for example, the first criterion of the just war tradition, *jus ad bellum*, whether there is just cause to go to war. Most authors who discuss just war theory would agree that a defensive military action undertaken by a legitimate authority with just intentions in a last resort constitutes a just war. However, when most just war authors considered the notion of war, it was almost exclusively under the conditions of conventional military battles. Few have considered how the just war tradition emerges from under the nuclear mushroom cloud. In a world of standing infantry, it seems reasonable for the UN Charter Article II Clause 4 to require that nations forgo the use of force unless they have been attacked. But in a world of nuclear weapons where an initial attack is potentially lethal and surely devastating, scholarship in the field has called for a reconsideration of the existing international jurisprudence.

In short, Denzel Washington's character in *Crimson Tide* is correct when he suggests that, "in the nuclear age, the true enemy is war itself." If we accept the common definitions of terms in the resolution, the conditions for anticipatory self-defense are laid plainly at the affirmative debater's feet. Some legwork needs to be done on addressing the imminence

standard common to international agreements. But the affirmative seems to have a prima facie case for acting in self-defense under the conditions of the resolution: that is, a nation who poses a military threat to the U.S. is about to acquire a nuclear weapon.

After seeing a few debates on this topic (largely in Minnesota and California), it's fair to say that the resolution plays out a bit differently than we initially anticipated. Given the relative specificity of this resolution, many judges seem to be giving less credence to arguments that dispute the conditions of the resolution and very poorly understood IR theory. If I had once piece of advice to debaters on this topic, it would be to read an IR theory book. Debating IR without having at least a fundamental understanding of IR theory is a prelude to a farce and definitely a TOC tragedy.

II. Every policy debater's LD topic; the policy-oriented approach

Benjamin Franklin wrote that democracy is two wolves and a lamb voting on what's for dinner. Debate can often mimic this scenario with strong teams and squads dominating tournament after tournament. This topic is certainly a well armed lamb contesting the vote in that any student with a policy backfile is a threat on this topic. This provides my second piece of advice, which is not to take anyone for granted on this topic.

First, there is a basic argument to be made about the virtues and vices of nuclear proliferation. Proliferation can either be vertical or horizontal. Vertical proliferation constitutes the acquisition of additional nuclear weapons by an existing nuclear power. Horizontal proliferation constitutes the acquisition of an initial set of nuclear weapons by a previously non-nuclear power.

In the international arena, authors disagree about the deterrent effect of nuclear weapons and the actors that are involved in nuclear power politics. Some authors argue that the possession of nuclear weapons by many nations reduces the likelihood of war because all nations would fear nuclear reprisal. This would scale down military conflict to conventional levels. However, others argue that there are some leaders who are undeterrable and as a result, putting them in charge of nuclear weapons would constitute a mammoth risk to regional and global security.

As well, as the number of nuclear weapons increase, so too does the risk of accidental launch and poor command and control systems permitting the theft or sale of nuclear materials to terrorists. It is important to note that while terrorist cells are not necessarily topical, increasing access to terrorists (whether they are anti-American or otherwise) is not only topical but absolutely relevant to any discussion about nuclear proliferation. The existence of nuclear superpowers also confounds the issue of deterrence as some states with more nuclear weapons skew the balance of power.

In international theory, this rests on game theory. In the international arena, all actors (states) have imperfect information about each other's military capability, intentions, alliances, etc. As a result, all actors are fearful that any other state might attack them since it is always riskier to trust another actor. So, when one actor builds up a nuclear or conventional arsenal even for purely defensive reasons, other actors view this action as

offensive and build defensive capabilities to match the other. Perceiving this build-up by their neighbors, the initial actor must now build even more military capability in order to stay ahead. In lay parlance, this is known as the security dilemma, which prompts spiraling arms races.

Second, hegemony, or the power a single dominant nation projects on other states, is particularly relevant given that the agent of action is specific in the resolution to the U.S. At the end of the Cold War, the world witnessed a departure from nearly a century of balanced power in a bipolar system. Two powers, the USSR and the U.S. held separate spheres of influence that roughly balanced each other. With the collapse of the Soviet Union, the U.S. became the global hegemon in a unipolar system. As the only world superpower, the U.S. wielded an enormous amount of influence through both hard and soft power. Hard power refers to a nation's military capability and force while soft power refers to its non-military or ideological influence.

Some authors argue that the US remains the global hegemon who maintains the balance of power among lesser states through its hard and soft power as well as through regional alliances, security agreements, and military presence. These authors claim that diminishing US hegemony is problematic for the international landscape because it compromises security relationships around the globe and compels some nations to take security into their own hands. Other authors would disagree, suggesting that US hegemonic status is waning and that we in fact live in a multipolar world comprised of economic successes such as China, India, and the EU.

Critics of US hegemony point to imperialist types of arguments for why the US should not engage in interventionist policies globally. In addition, it is common for critics of US hegemony to argue against US unilateral action and instead suggest that US hegemony should be tempered by a consideration for the global community and international actors more specifically. This leads us to another aspect of the debate that is commanded by the policy backfile: counterplans. Certainly, the LDish way of making these types of arguments should be readily apparent as one could argue that we attempt other types of actions rather than military force to prevent the acquisition of nuclear weapons. However, I would caution debaters to be more thorough in their research, reading, and articulation of such arguments.

Any good policy debater knows that a counterplan should be mutually-exclusive and net-beneficial, which is to say that the affirmative should not be able to easily permute the counterplan. Put another way, if the negative argues that we should use international pressure through economic sanctions to prevent the acquisition of nuclear weapons, the affirmative could easily suggest that nothing prevents the affirmative from trying that first and if it fails, have military force as last resort. The extensive corpus of counterplans that are relevant to this topic is far beyond the reach of this overview but I will outline a few that I think will be common. Initially, the separate action counterplan involves taking some other type of preventative step to prevent acquisition of nuclear weapons. To be successful, this strategy must be paired with some evidence as to why only international pressure/sanctions/diplomacy/etc. is the only action that prevents acquisition. Another option is to engage other actors known as an agent counterplan. This would demand that another actor, most likely an international actor, supplant US action to prevent acquisition.

This would require some evidence on why using the other actor, i.e. the United Nations, would be successful and beneficial. Some debaters may discuss a particular subset of these counterplans known as consult counterplan whereby the US asks another actor to review and recommend alterations to US policy. These are much trickier positions to create in LD and their function has yet to be addressed by theoretical norms in the community. However, consultation counterplans would be relevant to this discussion at first glance.

In general, policy debaters and coaches will have great insights on how this debate can take place from a policy-maker perspective that will be enlightening for most LD debaters. Rather than shy away from these types of debates, this should present an interesting and unique challenge for traditional LD debaters to marry ethical ramifications of policy decisions on the topic. It seems that justice considerations divorced from geopolitical realities is not a worthwhile endeavor and that finding a happy medium between these types of arguments and those that are palatable to the LD community will be a difficult yet rewarding exercise. However, it is important for LDers to be held to similar standards of evidentiary and theoretical requirements of such argumentation. Even LD judges should be rightly skeptical of a negative claim that US action is unjust because the UN should do it because it is multilateral absent any evidence that such action is mutually exclusive or net-beneficial.

III. The Last Leg of the Axis of Evil: Public Forum

A quintessential “ripped from the headlines” resolution, this topic has an incredible current appeal. For example, the Monday before the Edie Holiday tournament in Minneapolis where this topic was debated for the first time, the National Intelligence Estimate was revealed suggesting that Iran had disavowed their clandestine nuclear program. As one of very few nations that directly fit the topic wording, the Iran perspective not only carries with it a litany of literature but also tremendous real-world appeal. As public forum debaters may remember from their Iran topic, the LD resolution is a broader version of this question. For many, the LD resolution is, at first glance, a question of whether it is just for the US to intervene in Iran. Up until recently, Iran had a burgeoning nuclear program that was touted as primarily an energy program. However, international inspectors were not allowed to view certain installations until recently.

The Bush administration was convinced that Iraq had developed weapons of mass destruction including nuclear weapons prior to military engagement as some believe that this intelligence was the pretext or *cassis belli* for intervention. We discovered that the intelligence was flawed. Today, we are faced with similar intelligence regarding Iran but of an opposite nature. While there are very few critics of the National Intelligence Estimate, there are some who argue that US intelligence is flawed here again and that Iran continues to develop a clandestine nuclear weapons program that will pose a military threat.

These arguments also underlie some of the other arguments discussed above. The NIE suggests that international pressure was successful in quelling Iran’s nuclear ambition and that multilateral non-military action will continue to be successful. There are also continued implications of US intervention in the Middle East and how military force may be perceived by the insurgent Shiites and Sunnis in the area.

As well, the contemporary factors that affect US military capability must be addressed as it relates to Iran or beyond. While current troop deployments are classified, we do have some details regarding recent active protocols. The US has nearly 133,000 servicemen and women stationed in Iraq, 100,000 in Europe, 22,000 in Afghanistan and several thousand elsewhere. The high tempo operations schedule for troop deployment and redeployment has far outpaced the recommendations by the DOD and other national security advisers. From one perspective, maintaining existing troop deployments, it would be almost impossible to send new troops to a forward area. Retraining existing troops and deploying them to a new forward area would take several months far below optimal Status of Resources and Training System levels. While the current SORTS levels are also classified, the number of C-1 and C-2 rated force packages are low, suggesting that essential equipment is lacking, units require additional resources or training to undertake its mission, some units are definitely not ready at any level and cannot fulfill the mission in the event of war. The conclusion we can reach is that US military action would either be improbable or unsuccessful without drastic changes to the military structure.

In conclusion, this topic has a wide variety of literature that addresses a wide variety of angles. The best debaters on this topic will be well-versed in not only the international relations theory and the ethics of global decisions, but also the practical aspects of the topic. Good evidence will be the crucial determinate of success for debaters who wish to succeed.

Best wishes for your January and February debating and for those of you who will make a "Run for the Roses" in May!

Topic Analysis by Adam Torson

Unconditional war can no longer lead to unconditional victory. It can no longer serve to settle disputes. It can no longer concern the Great Powers alone. For a nuclear disaster, spread by wind and water and fear, could well engulf the great and the small, the rich and the poor, the committed and the uncommitted alike.

Mankind must put an end to war - or war will put an end to mankind.

-President John F. Kennedy, "The Role of the United Nations", Address Before the General Assembly of the United Nations, September 25, 1961

If you go on with this nuclear arms race, all you are going to do is make the rubble bounce.

--Winston Churchill

Man is stumbling blindly through a spiritual darkness while toying with the precarious secrets of life and death. The world has achieved brilliance without wisdom, power without conscience. Ours is a world of nuclear giants and ethical infants.

--General Omar N. Bradley, Armistice Day speech [1948]

Dean Acheson took Oppenheimer into the Oval Office and introduced him to Truman. Oppenheimer said, 'I have blood on my hands.' Truman claims that he responded to Oppenheimer by saying, 'Never mind, it will all come out in the wash.' Then Truman cut short the interview... Acheson was called back into Truman's presence... Truman shouted 'Never bring that idiot here again.'

--Leona Marshall Libby

There is no dearth of opinion on the subject of either nuclear weapons or the role of United States military force in international affairs. My first piece of advice for approaching it, therefore, is to read read read. There is an enormous and diverse array of topic literature out there that is readily accessible, so if you don't spend some time doing good research you are going to be behind.

The topic area is interesting, but the resolution is long, and the wording is a bit clumsy. I will start by identifying some of the issues you are going to want to resolve in framing the debate. Then I will discuss some basic theoretical perspectives on international relations to augment your conceptual toolbox in approaching the subject. Finally, I'll talk about four general areas that may yield insight into the resolution, topic literature, and arguments.

Framework

The topic wording leaves the door open for lots of interpretation. You may want to address several elements of the resolution to clarify the round and establish your position.

First, to the meaning of "use of military force" is not entirely clear. If force is understood in the same sense as "the armed forces," then anything the military does might fall within the resolution, including intelligence gathering, domestic security, etc. Alternatively, force might mean some kind of direct action. If that is true, though, does that action have to be violent? For example, a regional military buildup could act as a deterrent to the acquisition of nuclear

weapons, or serve as a blockade for importing nuclear weapons technology, but neither is expressly or necessarily violent in the sense that it must cause physical injury or death. Moreover, if the United States is using military force does that require that the action be undertaken by its own forces? The United States might spearhead a multilateral effort to prevent proliferation, which employs as a threat or with actual violence the military forces of other nations. There are numerous instances where the U.S. led efforts to use U.N. peacekeeping forces drawn from the uniformed services of member states, but which did not include forces from the United States or the Soviet Union for fear that putting those troops together could lead to an international incident. Are such cases within the meaning of the resolution? Framing this issue precisely will be critical for establishing that your cases are adequate to implicate the whole resolution.

Second, it isn't clear whether "acquisition" means procuring nuclear weapons capability for the first time, or whether simply augmenting a pre-existing nuclear arsenal will suffice. The former interpretation narrows ground considerably. Presumably it would exclude arguments about intervention against nations which already possess even rudimentary nuclear weapons programs, such as North Korea. It also excludes many arguments about the proper U.S. role in affecting regional power dynamics or the potential use of deterrence as an alternative strategy to the use of conventional military intervention.

Third, what does it mean for a nation to "pose a military threat?" The implication seems to be a military threat to the United States, but there is no way to resolve the issue grammatically. That said, every nation presumably poses a military threat to somebody. Though affirming doesn't necessarily imply that the United States has an obligation to intervene in all cases that fit the topic, it certainly would seem to expand the scope of U.S. military power. Moreover, there is significant room for interpretation as to what constitutes a threat. If a threat entails the potential to defeat a nation militarily, then it is difficult to argue that any conventional military in the world is capable of "threatening" the United States (though again they certainly may have that capability in relation to other nations). If, on the other hand, a threat simply means the ability to cause damage to a nation's interests, infrastructure or people, then it seems that everybody poses at least a remote threat to everyone else. These are very significant distinctions, because many international norms relating to when it is and is not OK to use military force have to do with when and to what extent a nation has to be threatening to justify preemptive violence.

Fourth, the resolution specifies that the United States is the agent of action, but what exactly this entails is also a matter for interpretation. Does it require that the United States act unilaterally? Must U.S. forces at least be involved in any multilateral action to fall within the resolution? Moreover, does the resolution imply that it is the United States government who is the relevant agent? This seems intuitive, but it has become increasingly common to emphasize the role of both sub-state and supranational actors in international relations. Thinking about what other kinds of actors could be included in "the United States" opens up ground for criticisms of positions which assume a state-centered model of international relations, and in turn opens up the possibility of discussing how the actions of terrorists, non-governmental organizations like the Red Cross, or international organizations like the United Nations and NATO relate to the actions of states and the use of military force among nations or the acquisition of nuclear weapons.

So, you'll have to do some significant work to establish the basic parameters of the resolution, but doing so will help to solidify your advocacy.

Theoretical Approaches to International Relations

A traditional study of international relations often begins by articulating a series of scholarly "perspectives" which are prototypical of various approaches employed by academics and policy-makers. Each rests on certain underlying assumptions, emphasizes different factors and dynamics, and lends itself to certain policy prescriptions for international relations. A brief overview of several of these perspectives may be useful for engaging the topic literature and for understanding many arguments you will hear.

Realism: The dominant approach to international relations in the latter half of the twentieth century was Realism. Realism posits that international relations is centrally concerned with the actions of states, who, for the purposes of their dealings with other nations, should be understood to be unitary rational actors pursuing the "national interest." The international system, they claim, is characterized by anarchy, because there is no supra-national body which can credibly enforce agreements or facilitate permanent international cooperation. This means that states at minimum protect their own survival at all costs and seek to maximize their power relative to other states. So-called "hard power" is most relevant in this struggle, which involves the use of physical assets to coerce or use violence against other nations. Ultimately, then, international status is determined by a nation's latent or actual military strength.

The international system is, not surprisingly, characterized by conflict and strife. The international arena is uncertain and dangerous, and cooperation is difficult at best. Classical Realists will emphasize the role of individuals in international relations, claiming that people are innately aggressive and power-seeking. Neorealists place more emphasis on the systemic constraints on state action; they argue that even if states wanted to cooperate the fundamental uncertainty built into the system confined them to competitive and power maximizing behaviors so as to avoid "falling by the wayside." International relations has a "socializing" effect. In this way the international system has real material features which severely constrain the actions of states. The relative power distribution within the system, especially the number of dominant nation-states (unipolarity, bipolarity, or multipolarity) has huge consequences for the stability of the system as a whole.

Liberalism: Liberalism offers a competing approach. Liberals are apt to place more emphasis on the role of sub-state actors such as political interest groups and individuals than Realists, and also on how the nature of regimes affects the way nations engage the world. Liberals point out that regime type can determine when nations go to war; they claim advanced democracies rarely go to war with one another. These claims call into question the Realist assumptions that states are unitary rational actors whose behavior is fundamentally constrained by the structure of the international system. Liberals further posit that the prospects for absolute (as opposed to relative) gains open up possibilities for cooperation between nations. They tend to emphasize the role of economic interdependence, the ability of international organizations like the United Nations to foster cooperation, and the role of soft-power (generally cultural, economic, and other ideational ties). Neoliberalism

(sometimes called Neoliberal Institutionalism) recognizes uncertainty as a barrier to cooperation, but looks for strategies to mitigate its effects (drawing heavily on the insights of game theory). For example, states build reputations through repeated interaction among states, and as long as they build trust and abide by international agreements, this strategy of reciprocity increases the likelihood of cooperation on a given issue.

There are a series of more critical and therefore less traditional approaches to international relations. They are not as common and therefore might not be as useful, but they are worth considering and may form the basis of interesting, unorthodox positions.

Constructivism; Though Constructivism arises from a diverse group of scholarly approaches, it is generally associated with a central emphasis on the way social interactions shape perceptions of reality. They criticize the notion that there are material features of the international system which severely constrain states and contend instead that the structures of the international system are fundamentally social constructions and therefore are subject to interpretation and change across time. Such accounts tend to be more dynamic than traditional approaches, focusing not on a single actor but on complex interactions among various actors, including individuals, interest groups, political structures, nation states, non-governmental organizations, alliance structures, international organizations, etc. They further emphasize the significance of ideational factors in international relations, such as ideology, norms creation, identity construction, dominant traditions, cultural practices, etc.

Marxism: Marxism argues that economic relations are the dominant factor influencing international relations. It generally contends that class interests drive the behavior of states in relation to one another, and that the international system is organized hierarchically among advanced capitalist countries and underdeveloped “third world” countries. The former extracts cheap labor and natural resources from the latter, and as a result prevents the third world from acquiring advanced technologies and sustainable economic development. Capitalist nations use their economic and military power to secure this relationship of exploitation and domination. Marxists believe the capitalist world economy is fundamentally unjust. It uses these insights to explain the actions of powerful states in relation to one another. For example, advanced capitalist nations may outsource labor to depress wages domestically, or they may violently compete over imperial claims to dominate other peoples economically and politically. Conflict among less powerful states and more powerful states is explained as a reaction to the systematic disadvantages leveled against lesser developed nations by the system itself.

Feminism: There is an abundance of Feminist scholarship on this topic in international relations. Again, Feminism presents a broad array of perspectives which are not necessarily consistent with one another. Generally speaking, it focuses on the role of gender norms in international relations. Liberal Feminists will tend to focus on securing the rights of women around the world, for example, through international treaties that recognize a women’s right to political participation, right to work, rights with regard to sexual health and reproduction, or protections against systematic exploitation. Feminist critical theory will tend to emphasize the role of patriarchy in the international system. Often aligned with Marxism, critical Feminists will often argue that relationships of exploitation and domination among men and women in traditional cultures (all over the globe but especially in the West) are reproduced

in international relations that assume and reify these same hierarchies. Thus patriarchy is posited as a major influence in the relationships among peoples and states. A third category of Feminist scholarship is sometimes called “standpoint Feminism.” This argues that women have unique cultural (and sometimes biological) experiences that have been excluded from decision-making and other aspects of international relations. Generally such theorists will argue that this has led to an overemphasis on conflict, domination, and universalizable norms and laws, and an under emphasis on cooperation, compromise, perspective, and non-violent problem solving. Finally, there is a group of Feminist thinkers who might generally be called “postmodern” Feminists. These scholars tend to deconstruct the layers of meanings in international relations, particularly as they regard to labels and supposed gender norms. This approach criticizes the ontological assumptions of most other perspectives on international relations and instead contends that some of our fundamental modes of thinking are flawed and sometimes oppressive. For example, postmodern Feminists will point out that the discourse surrounding nuclear weapons – the very way we talk about the issue – belies hidden but powerful assumptions that reinforce oppressive world-views such as heterosexism and sex discrimination.

As you can imagine, the fundamental assumptions of these competing approaches often lead policy-makers to come to radically different conclusions about the appropriate policies to pursue in international relations. With these major categories in mind, I hope you’ll be able to engage the topic literature with a better understanding of how it is situated in relation to other approaches, what kind of assumptions the authors may be employing, and how those assumptions might be problematic. Ultimately, I hope this will help you do the same thing in debate rounds.

Major Aspects of the Topic

The areas discussed below are by no means exhaustive of the potential kinds of arguments or literature you might pursue on this topic. There are some areas of analysis that you should familiarize yourself with, however, because they will be common.

In recent years the topic of preventative war has received a significant amount of discussion, largely in reaction to the policy of preventative war to protect against the threat of weapons of mass destruction articulated in the United States’ 2002 National Security Strategy. The debate, however, has a long history. Drawing strongly on “just war” theory, most international conventions assert a primary prohibition on wars of aggression as a violation of national sovereignty. This rule, however, has been softened a bit for several reasons. One notable reason has been the expansion of the concept of “human security,” which posits that nations ought to be allowed to disregard the sovereignty of a nation that abuses the human rights of its citizens. Though somewhat shaky, it is conceivable that seeking to procure nuclear weapons could threaten the rights of a nation’s citizens such that that it justifies intervention by a third party.

A second notable exception to the prohibition on wars of aggression has been the idea of preemptive war, in which a state does not have to wait to be attacked in order to use military force in self-defense. Where an attack is imminent, the use of force is justified. Certainly some imminent threats fall within the scope of the resolution. However, some scholars have argued for an expanded notion of preemption, especially in the case of nuclear weapons

where any first strike would have enormous consequences. With such high the stakes, they argue that preventative war would be preferable to a nuclear catastrophe that could devastate enormous portions of the populations of the respective combatants and even trigger a global nuclear holocaust. Critics, however, charge that this expansion simply opens the door to unlimited use of force in international affairs and therefore undermines the efficacy of international cooperation and the juridical norms that have developed to govern the relationships between states. For these reasons, they argue, preventative war tends to undermine the legitimacy of an actor in the eyes of world.

Others simply question whether preventative war can be effective, especially against nuclear weapons. The less imminent a threat, the more likely that nations will miscalculate or use force too readily. Intelligence failures have plagued the application of the preventative war doctrine. Moreover, the risk of a first strike to prevent the acquisition of nuclear weapons is incredibly high, because if the effort fails to completely destroy the targeted arsenal, then the nation is no longer constrained by deterrence. For example, if the United States were to strike at North Korea's nuclear weapons program, it would have to be certain of success or risk losing Tokyo if even a single North Korean weapon survived. That being said, that may be a compelling argument for preventing acquisition in the first place, especially because, once acquired, nuclear weapons can permanently shield repressive states from the foreign intervention.

This leads to a second major area of argumentation, which is the enormous amount of thought that has been devoted to what can loosely be called "nuclear logic." Nuclear logic has largely been based on deterrence – that the prospect of total destruction will always dissuade rational actors from launching a nuclear attack. In traditional logic, a nation has an incentive to launch a first strike only when it knows that such a strike will completely destroy or disable the enemy. The focus of deterrence theorists, consequently, has been the ability to maintain a credible second strike capability. In other words, for deterrence to work the adversary must know that you can "absorb" a full nuclear strike and still launch a devastating strike in return. For example, throughout most of the Cold War the United States maintained such a sizable nuclear arsenal that it would have been able to take a full missile strike from the Soviet Union and still have enough capability left to destroy every major city in the Soviet Union.

A number of factors complicate this analysis, however. Many who advocate a preventative war approach claim that certain "rogue" leaders tend not to act rationally and therefore deterrence is not an adequate guarantee. This same problem applies to the prospect of nuclear terrorism. The possibility that a state may "pass off" a nuclear weapon to a terrorist makes deterrence problematic because a) the attackers themselves cannot be deterred as they already intend to die, and b) its unclear against whom we would retaliate. Critics, however, charge that the view of "rogue" leaders is motivated by ethnocentrism, and that in any case nuclear weapons make international affairs less complicated, not more. If there is one thing most leaders want it is to remain in power, and the threat that there will not be a country to rule over should they use their nuclear arsenal is certainly easy enough to understand. This also highlights the weakness of the "terrorist hand-off" argument, which is that states have significant disincentives to surrender control of their nuclear arsenals. They not know

whether the weapon might simply be used against them, and they still risk retaliation from states who would accuse the state of harboring and abetting the terrorists (e.g. Afghanistan).

Further factors may complicate deterrence logic, however. For one thing, the number of states with nuclear weapons, and the matrix of rivalries among them, make strategic calculations much more difficult, and should nuclear weapons be used, increased uncertainty might lead to the catastrophe of a multi-state nuclear exchange. Regional power struggles could snowball into wars of global annihilation. Moreover, the development of nuclear weapons technology has blurred the line between conventional and nuclear weapons. The potential of tactical level nuclear weapons, the launch authority for which may be delegated to field commanders, again makes the prospects for escalation into full scale use of strategic nuclear weapons more likely. Lastly, the development of national or theatre-based missile defense technology (sometimes known as a missile “shield”) undermines the virtues of conventional deterrence. Second-strike capability is no longer assured when a nation might be able to destroy nuclear missiles before they ever reach their target, and so the threat of first strike appears more likely. This situation is destabilizing for obvious reasons.

A third major area of analysis will involve the various approaches the international community has adopted to curb the proliferation of nuclear weapons technology. A myriad of approaches may serve as alternatives or complements to the action proposed by the resolution, depending on how you frame it. First, there have been a significant number of treaties in which current nuclear powers have agreed not to proliferate nuclear technology and non-nuclear powers agreed not to seek it, notably the Nuclear Non-Proliferation Treaty (NPT). Alternatively, some international efforts have sought to limit or monitor the import and use of fissile materials (uranium and plutonium), though this is more difficult because most international treaties allow for use of nuclear technology as a source of power, and those programs are at least hypothetically monitored by the International Atomic Energy Agency (IAEA). Other attempts to limit the development of nuclear technology, particularly increasingly advanced nuclear technology among the major nuclear powers, have included limits on nuclear weapons testing. The Comprehensive Test Ban Treaty (CTBT) has been the most notable of these efforts, and it requires, among other things, that nations not explode a nuclear device for testing purposes nor aid in such testing. It is not clear whether this approach has prevented nations from developing nuclear weapons, though it certainly provides a framework for detection, employing various monitoring technologies, that makes it much more difficult to test nuclear weapons in secret. Still, the effort has had some notable disappointments. India, Pakistan, and North Korea are not signatories to the treaty, and each has conducted nuclear weapons testing. The United States itself has signed but not ratified the treaty, which is a matter of ongoing controversy.

Another major approach to non-proliferation has been to control the proliferation of delivery systems for nuclear weapons, such as ballistic missiles, though this effort too has been hampered by non-signatories who are major proliferators. Missile defense shields are also often posited as a counter-proliferation measure. They serve as a deterrent to development (why expend all the resources when their effect may be minimal?) and protect against technologically less advanced missiles fired from “rogue” states whose programs we are otherwise unable to stop. Another approach has to interdict transfer of nuclear weapons technology, including delivery systems. A notable effort here has been the Proliferation

Security Initiative (PSI), which is an international legal instrument designed to authorize nations to detect and confiscate shipments of weapons technologies in violation of international law. Again depending on how you define military force the PSI may fall on either side of the resolution.

The last major area of analysis that will be common on this topic is to explore the series of critical approaches commonly applied to international relations issues generally and nuclear weapons issues and U.S. intervention specifically. The use of generic insights of social construction is no longer terribly radical in debate. But it should be especially common in this topic because there is significant topic specific literature that falls into this category and because so much of the discourse surrounding nuclear weapons has been dominated by Realists, whose assumptions are particularly vulnerable to Constructivist critique. A focus on the role of norms creation and international political culture will be particularly important. The opacity of most dealings between states often makes it difficult to unmask what ideologies and standpoints are employed and represented in international politics. This may itself be grounds for criticism, but more importantly should indicate to us those concepts of identity, cultural practices, and ontological assumptions about the nature of the international system are rarely critically interrogated. Though these approaches are many and varied, two major ones come to mind that you will almost certainly see.

The first broad category is Feminist positions. There is a rich literature discussing the hyper-masculinization of international relations and nuclear politics specifically. Culturally masculine discourse has dominated the scene, often masking basic but problematic assumptions or focusing policy-makers on particular aspects of the issue that lend themselves to specific solutions. For example, if the use of nuclear weapons is seen through a sexualized metaphor whereby the victims of a nuclear strike are passive objects, it is easier to disregard their status as autonomous human beings whose interests and perspectives are valid and worthy of consideration. Some Feminists have further argued that the patriarchal norms which predominate among the armed services have justified or excused systemic violence against women by casting them as “spoils” or as a symbolic representation of national identity linked to “home” and “motherhood.” Such criticisms should give us pause when considering the implications of military force and encourage us to reassess the biases that are ingrained in the traditional approach to issues of war and peace.

A second broad category of more critical positions you will likely see will be those drawn from literature on Orientalism. Orientalism propagates the notion of an East/West dichotomy, casting the latter as rational, enlightened, autonomous actors whose cultures are characterized by progress, industrialism, individualism, and a respect for universally valid rights and values. This is distinguished from non-western cultures, who are seen as irrational, primitive, collectivist, and superstitious. This kind of dichotomy objectifies “the Other” and justifies different standards of respect and behavior. For example, the notion that the west has “responsible and rational” leaders for whom the logic of deterrence is an adequate safeguards but non-western “rogue” leaders are irrational and irresponsible may largely be a biproduct of this conceptual lens which casts the West as legitimately dominant and morally superior.

I hope you feel like you have some theoretical framework to approach the topic and some avenues to pursue research and develop case positions. Good luck to everyone!

Affirmative Evidence

Realism:

General:

The structure of the international arena forces states to engage in power struggles.

John Mearsheimer, *The Tragedy of Great Power Politics*, Norton and Company, 2001.

The structure of the international system forces states which seek only to be secure nonetheless to act aggressively toward each other. Three features of the international system combine to cause states to fear one another: 1) the absence of a central authority that sits above states and can protect them from each other, 2) the fact that states always have some offensive military capability, and 3) the fact that states can never be certain about other states' intentions. Given this fear—which can never be wholly eliminated—states recognize that the more powerful they are relative to their rival, the better their chances of survival.

Power struggle is a zero sum gain which forces an endless cycle of security competition.

John Mearsheimer, *The Tragedy of Great Power Politics*, Norton and Company, 2001.

... it is difficult for a state to increase its own chances of survival without threatening the survival of other states... Striving to attain security from... attack, [states] are driven to acquire more and more power in order to escape the impact of the power of others. This, in turn, renders the others more insecure and compels them to prepare for the worst. Since none can ever feel entirely secure in such a world of competing units, power competition ensues, and the vicious circle of security and power accumulation is on... the best way for a state to survive in anarchy is to take advantage of other states and gain power at their expense.

States fear each other, therefore they are constantly engaged in a state of security competition.

John Mearsheimer, "The False Promise of International Institutions," *International Security*, Vol. 19, No. 3 (Winter, 1994-1995), 5-49.

First, states in the international system fear each other. They regard each other with suspicion, and they worry that war might be in the offing. They anticipate danger. There is little room for trust among states. Although the level of fear varies across time and space, it can never be reduced to a trivial level. The basis of this fear is that in a world where states have the capability to offend against each other, and might have the motive to do so, any state bent on survival must be at least suspicious of other states and reluctant to trust them. Add to this the assumption that there is no central authority that a threatened state can turn to for help, and states have even greater incentive to fear each other. Moreover, there is no mechanism—other than the possible self-interest of third parties—for punishing an aggressor. Because it is often difficult to deter potential aggressors, states have ample reason to take steps to be prepared for war. The possible consequences of falling victim to aggression further illustrate why fear is a potent force in world politics. States do not compete with each other as if international politics were simply an economic marketplace. Political competition among states is a much more dangerous business than economic intercourse; it can lead to war, and war often means mass killing on the battlefield and even mass murder of civilians. In extreme cases, war can even lead to the total destruction of a state. The horrible consequences of war sometimes cause states to view each other not just as competitors, but as potentially deadly enemies.

Security struggles for military power are inevitable

John Mearsheimer, "The False Promise of International Institutions," *International Security*, Vol. 19, No. 3 (Winter, 1994-1995), 5-49.

<Third, states in the international system aim to maximize their relative power positions over other states. The reason is simple: the greater the military advantage one state has over other states, the more secure it is. Every state would like to be the most formidable military power in the system because this is the best way to guarantee survival in world that can be very dangerous. This logic creates strong incentives for states to take advantage of one another, including going to war if the circumstances are right and victory seems likely. The aim is to acquire more military power at the expense of potential rivals. The ideal outcome would be to end up as the hegemon in the system. Survival would then be almost guaranteed. All states are influenced by this logic, which means not only that they look for opportunities to take advantage of one another, but also that they work to insure that others states do not take advantage of them. States are, in other words, both offensively-oriented and defensively-oriented. They think about conquest themselves, and they balance against aggressors; this inexorably leads to a world of constant security competition, with the possibility of war always in the background. Peace, if one defines that concept as a state of tranquility or mutual concord, is not likely to break out in this world.>

Anarchy causes states to act in a realist fashion.

Jeffrey W. Taliaferro, "Security Seeking under Anarchy: Defensive Realism Revisited," *International Security*, Vol. 25, No. 3. (Winter, 2000-2001), pp. 128-161.

<Offensive realism holds that anarchy-the absence of a worldwide government or universal sovereign-provides strong incentives for expansion. All states strive to maximize their power relative to other states because only the most powerful states can guarantee their survival. They pursue expansionist policies when and where the benefits of doing so outweigh the costs. States under anarchy face the ever-present threat that other states will use force to harm or conquer them. This compels states to improve their relative power positions through arms buildups, unilateral diplomacy, mercantile (or even autarkic) foreign economic policies, and opportunistic expansion.3>

States operate from within a self-help world.

John Mearsheimer, prof Uchicago, *The Tragedy of Great Power Politics*, p. 33, 2001.

<Because other states are potential threats, and because there is no higher authority to come to their rescue when they dial 911, states cannot depend on others for their security. Each state tends to see itself as vulnerable and alone, and therefore it aims to provide for its own survival...states operating in a self-help world almost always act according to their own self-interest and do not subordinate their interest to the interests of other states...the reason is simple: it pays to be selfish in a self-help world.>

Institution Theory & Realism:

Institutions do not prove realism false.

John J. Mearsheimer, "A Realist Reply," *International Security*, Vol. 20, No. 1. (Summer, 1995), pp. 82-93.

Realists answer no. They believe that institutions cannot get states to stop behaving as short-term power maximizers. For realists, institutions reflect state calculations of self-interest based primarily on concerns about relative power; as a result, institutional outcomes invariably reflect the balance of power. Institutions, realists maintain, do not have significant independent effects on state behavior. However, realists recognize that great powers sometimes find institutions-especially alliances-useful for maintaining or even increasing their share of world power. For example, it was more efficient for the United States and its allies to balance against the Soviets through NATO than through a less formal and more ad hoc alliance. But NATO did not force its member states to behave contrary to balance-of-power logic.

Institutions do not have independent effects on state actions.

John J. Mearsheimer, "A Realist Reply," *International Security*, Vol. 20, No. 1. (Summer, 1995), pp. 82-93.

Furthermore, Keohane and Martin hardly mention the argument that institutions can have an independent effect on state behavior. Indeed they write (p. 48) that "the difference between realism and liberal institutionalism does not lie in whether institutions are independent or dependent variables." If that is the case, then it is difficult to see how this latest version of liberal institutionalism presents much of a challenge to realism. Keohane and Martin make some arguments that might appear to contradict realism, but on close inspection, do not. Regarding the issue of relative gains, for example, they emphasize that "institutions can facilitate cooperation by helping to settle distributional conflicts." There is no question that institutions might help two states divide the gains of cooperation in a way that satisfies both parties. But that task is compatible with realism, because it does not require states to violate balance-of-power logic. In fact, institutions are working in such cases to ensure that agreements reflect the balance of power.

Institutional theory coincides with realism

Robert O. Keohane, "The Neorealist and His Critic," *International Security*, Vol. 25, No. 3. (Winter, 2000-2001), pp. 204-205.

If institutional theory acknowledges the role of state power and state interests, what does it contribute to the analysis of world politics? It [and] provides an explanation of why states turn increasingly to international institutions to achieve their purposes: chiefly, because institutions reduce the informational and other transaction costs of action. It explains the persistence of institutions such as the North Atlantic Treaty Organization, which Waltz incorrectly forecast would disappear after the Cold War. It shows how institutional characteristics alter the incentives, and actions, of states. International institutions reduce the costs of operating within institutional rules and increase the costs of violating them. Sometimes states break the rules, since to increase costs is not to make them infinite. But when these costs are high, they indeed affect state behavior. If these arguments are, as Waltz says, "realist conclusions" (p. 23, then I welcome realists to a more sophisticated understanding of the roles played by international institutions than is evident in Waltz's classic work of 1979, *Theory of International Politics*. As Waltz acknowledges, the issue is not one of choosing between two mutually exclusive theories. It is, instead, how to synthesize different insights in order to enhance our understanding of world politics. Structural realism in my view provides a good basis for such a synthesis, but it is not well defended by claiming that its 1970s formulation is sufficient for analyzing world politics in the twenty-first century.

AT: Constructivism:

The structure of the international arena causes realism; even if constructivists argue that discursively actors are not realist, those actors must inevitably be realist in the end or face destruction.

John J. Mearsheimer, "A Realist Reply," *International Security*, Vol. 20, No. 1. (Summer, 1995), pp. 82-93.

<Realists believe that state behavior is largely shaped by the material structure of the international system. The distribution of material capabilities among states is the key factor for understanding world politics. For realists, some level of security competition among great powers is inevitable because of the material structure of the international system. Individuals are free to adopt non-realist discourses, but in the final analysis, the system forces states to behave according to the dictates of realism, or risk destruction.

Constructivism is flawed.

John J. Mearsheimer, "A Realist Reply," *International Security*, Vol. 20, No. 1. (Summer, 1995), pp. 82-93.

The first problem with critical theory is that although the theory is deeply concerned with radically changing state behavior, it says little about how change comes about. The theory does not tell us why particular discourses become dominant, and others fall by the wayside. Specifically, Wendt does not explain why realism has been the dominant discourse in world politics for well over a thousand years, although I explicitly raised this question in "False Promise" (p. 42). Moreover, he sheds no light on why the time is ripe for unseating realism, nor on why realism is likely to be replaced by a more peaceful, communitarian discourse, although I explicitly raised both questions.

Constructivism has no guarantee that a preferable discourse will replace realism.

John J. Mearsheimer, "A Realist Reply," *International Security*, Vol. 20, No. 1. (Summer, 1995), pp. 82-93.

Wendt's failure to answer these questions has important ramifications for his own arguments. For example, he maintains that if it is possible to change international political discourse and alter state behavior, "then it is irresponsible to pursue policies that perpetuate destructive old orders [i.e., realism], especially if we care about the well-being of future generations." The clear implication here is that realists like me are irresponsible and do not care much about the welfare of future generations. However, even if we change discourses and move beyond realism, a fundamental problem with Wendt's argument remains: because his theory cannot predict the future, he cannot know whether the discourse that ultimately replaces realism will be more benign than realism. He has no way of knowing whether a fascistic discourse more violent than realism will emerge as the hegemonic discourse. For example, he obviously would like another Gorbachev to come to power in Russia, but he cannot be sure we will not get a Zhirinovskiy instead. So even from a critical theory perspective, defending realism might very well be the more responsible policy choice.

There's no empirical evidence to support constructivism.

John J. Mearsheimer, "A Realist Reply," *International Security*, Vol. 20, No. 1. (Summer, 1995), pp. 82-93.

The second major problem with critical theory is that its proponents have offered little empirical support for their theory. For example, I noted in "False Promise" that critical theorists concede that realism has been the dominant discourse in international politics from about 1300 to 1989, a remarkably long period of time. Wendt does not challenge this description of the historical record by pointing to alternative discourses that influenced state behavior during this period. In fact, Wendt's discussion of history is obscure. I also noted in "False Promise" that although critical theorists largely concede the past to realism, many believe that the end of the Cold War presents an excellent opportunity to replace realism as the hegemonic discourse, and thus fundamentally change state behavior. I directly challenged this assertion in my article, but Wendt responds with only a few vague words about this issue.

Anticipatory Self Defense:

Magnitude of the threat justifies Self Defense:

The magnitude of the nuclear threat requires nations use their right of self defense rather than “patiently await slaughter”

Michael Skopets – “Battered Nation Syndrome: Relaxing the Imminence Requirement of Self-Defense in International Law” – American University Law Reviews – February 2006 – L/N

<In an international conflict, a nation acts in self-defense because it may be facing a threat to its existence.¹²³ A nation, as a political entity, is responsible for the [*780] well-being of its citizens, and while death is arguably the most drastic harm that can befall a person,¹²⁴ an individual's death is less significant than the deaths and destruction that ensue when a nation is attacked, especially with non-conventional weapons.¹²⁵

Conforming to this balance of individual and national interests, it is not unreasonable to suggest that in a situation where a nation legitimately perceives itself to be under threat, it is acceptable for that nation to err on the side of using its right to anticipatory self-defense rather than to "patiently ... await slaughter."¹²⁶ When this decision to act is evaluated post factum, it must be considered from the viewpoint of a nation in this situation if the principles of self-defense are to be applied fairly to the potential victim of aggression.¹²⁷>

Proliferation bad because a little can do a lot of damage

Daryl G. Kimball, “Preventing a Nuclear Katrina,” Nuclear Age Peace Foundation, October 2005

<The only cure is prevention. Success primarily depends on depriving terrorist's access to nuclear bomb material, which they cannot produce on their own. But it only takes about 25 kilograms of highly enriched uranium (HEU) or 8 kilograms of plutonium to fashion a nuclear bomb. Worldwide, there are about 1,900 metric tons of HEU and more than 1,800 tons of plutonium in civilian and military stockpiles in dozens of countries. In the absence of U.S. support for a global, verifiable ban on fissile material production for military purposes and a phaseout of production for civilian purposes, the stocks will only grow. Significant quantities of nuclear weapons-usable material remain all too vulnerable as a result of inadequate security and accounting at hundreds of nuclear facilities, particularly in the former Soviet republics. The International Atomic Energy Agency has documented at least 18 cases of theft or smuggling of weapons-usable fissile material since 1993. In July, Georgia disclosed it had thwarted four more attempts to steal HEU over the last two years. Russia

also possesses at least 3,000 relatively more portable and less secure tactical nuclear weapons.>

The impact and magnitude of a nuclear detonation in an urban area would be horrific

Richard Wasserstrom - Professor at the University of Chicago - Special Issue: Symposium on Ethics and Nuclear Deterrence - "War, Nuclear War, and Nuclear Deterrence: Some Conceptual and Moral Issues" - *Ethics*, Vol. 95, No. 3, Apr., 1985 pp. 424-444.

<A single, one megaton nuclear bomb or warhead is one which possesses eighty times the explosive power of one of the two nuclear weapons ever used to date, the one dropped on Hiroshima. Were such to be detonated a mile or so above a large urban area, it would, in virtue of its explosive force, flatten virtually every structure within a radius of four miles, and it would heavily damage buildings within a radius of eight miles. Within two miles from the center of the explosion, winds of four hundred miles per hour would be produced, and four miles from the center they would still have a speed of one hundred eighty miles per hour. The fireball, which follows directly on the explosion, would produce at least third degree burns on the body of any person out in the open and within a radius of nine miles from the center of the blast. Those closer to it would be incinerated if they were not otherwise killed by the force of the explosion, the ensuing winds, and the falling structures. Within a radius of eight miles, mass fires would soon occur, caused by the inflammable materials ignited by the heat of the fireball, and those within these fire storms would also be burned to death. And within the first twenty-four to forty-eight hours, the radioactive fallout from the detonation would deliver doses of radiation, well in excess of those that are lethal, to persons who were within an area of about two thousand square miles and exposed to it.>

Nuclear War entails catastrophic climate changes that could easily destroy life on earth

Carl Sagan & Richard P. Turco - American astronomer and astrobiologist & Professor of Atmospheric Sciences and Director of the UCLA Institute of the Environment - "Nuclear Winter in the Post-Cold War Era" - Journal of Peace Research - Vol. 30, No. 4 - November 1993 - pp. 369-373 - JSTOR

At just the same time, atmospheric and planetary scientists accidentally discovered that - as bad as the prompt and local effects of nuclear war would be - the delayed and global consequences might be much worse. In 1982, Paul Crutzen and John Birks noted that forest fires ignited in a such a war could generate enough smoke to obscure the sun and perturb the atmosphere over large areas. The following year, we and our colleagues -Turco, Toon, Ackerman, Pollack, and Sagan (TTAPS) - recognized that the smoke from the burning of modern cities would provide a still more serious threat, and quantified the resulting climatic effects from various sources of soot and dust and for a wide range of possible nuclear war scenarios. Provided cities were targeted, even a 'small' nuclear war could have disastrous climatic consequences; a global war, we calculated, might lower average planetary temperatures by 15 to 20°C, darken the skies sufficiently to compromise green plant photosynthesis, produce a witches' brew of chemical and radioactive poisons, and significantly deplete the protective ozone layer. (The climate is thought to recover several years later.) These effects, which had been almost wholly overlooked by the world's military establishments, we described as 'nuclear winter'

Considering how profound a challenge nuclear winter presented to prevailing nuclear doctrine, it is not surprising that these results were challenged, especially by the weapons establishments. For example, prolonged debate ensued on whether three-dimensional atmospheric general circulation models for a 'standard' nuclear war were best characterized by 10 to 15°C or by 15 to 20°C temperature declines. But all calculations agree that the cooling would probably be at least as severe as the difference between present temperatures and those at the worst of the last Ice Age. Especially through the destruction of global agriculture, nuclear winter might be considerably worse than the short-term blast, radiation, fire, and fallout of nuclear war. It would carry nuclear war to many nations that no one intended to attack, including the poorest and most vulnerable. Estimates of fatalities remain conjectural. One study, performed by hundreds of scientists from over a dozen countries working for three years under the auspices of the International Council of Scientific Unions, concluded that billions of people would be at risk.

Nuclear war has enough power for multiple extinctions

Jonathan Schell - Professor at *Wesleyan University* and the *New School* and is the Harold Willens Peace Fellow at *The Nation Institute* - *The Fate of the Earth, The Abolition* – 2000

<When the existence of nuclear weapons was made known, thoughtful people everywhere in the world realized that if the great powers entered into a nuclear-arms race the human species would sooner or later face the possibility of extinction. They also realized that in the absence of international agreements preventing it an arms race would probably occur. They knew that the path of nuclear armament was a dead end for mankind. The discovery of the energy in mass – of "the basic power of the universe" – and of a means by which man could release that energy altered the relationship between man and the source of his life, the earth. In the shadow of this power, the earth became small and the life of the human species doubtful. In that sense, the question of human extinction has been on the political agenda of the world ever since the first nuclear weapon was detonated, and there was no need for the world to build up its present tremendous arsenals before starting to worry about it. At just what point the species crossed, or will have crossed, the boundary between merely having the technical knowledge to destroy itself and actually having the arsenals at hand, ready to be used at any second, is not precisely knowable. But it is clear that at present, with some twenty thousand megatons of nuclear explosive power in existence, and with more being added every day, we have entered into the zone of uncertainty, which is to say the zone of risk of extinction. But the mere risk of extinction has a significance that is categorically different from, and immeasurably greater than that of any other risk and as we make our decisions we have to take that significance into account. Up to now, every risk has been contained within the framework of life; extinction would shatter the frame. It represents not the defeat of some purpose but an abyss in which all human purpose would be drowned for all time. We have no right to place the possibility of this limitless, eternal defeat on the same footing as risk that we run in the ordinary conduct of our affairs in our particular transient moment of human history.>

Nuclear war outweighs all else - You must treat the risk of extinction as morally equivalent to its certainty

Jonathan Schell - Professor at *Wesleyan University* and the *New School* and is the Harold Willens Peace Fellow at *The Nation Institute*

To employ a mathematician's analogy, we can say that although the risk of extinction may be fractional, the stake is, humanly speaking, infinite, and a fraction of infinity is still infinity. In other words, once we learn that a holocaust might lead to extinction we have no right to gamble, because if we lose, the game will be over, and neither we nor anyone else will ever get another chance. Therefore, although, scientifically speaking, there is all the difference in the world between the mere possibility that a holocaust will bring about extinction and the certainty of it, morally they are the same, and we have no choice but to address the issue of nuclear weapons as though we knew for a certainty that their use would put an end to our species. In weighing the fate of the earth and, with it, our own fate, we stand before a mystery, and in tampering with the earth we tamper with a mystery. We are in deep ignorance. Our ignorance should dispose us to wonder, our wonder should make us humble, our humility should inspire us to reverence and caution, and our reverence and caution should lead us to act without delay to withdraw the threat we now post to the world and to ourselves.

Possession of nuclear weapons is justification:

According to just war theory in light of new threats, it makes little moral sense for the United States to wait until being attacked. The possession of nuclear weapons by rogue states and terrorist represents an aggression waiting to happen

Ronald J. Rychlak - Professor of Law, Associate Dean for Academic Affairs, the University of Mississippi - JUST WAR THEORY, INTERNATIONAL LAW, AND THE WAR IN IRAQ – Ave Maria Law Review – Spring 2004 – L/N

<In the modern era, terrorist nations and new weaponry have again changed the just war equation. New weapons and easier systems of delivery have created a situation where nations can be threatened even though there has been no amassing of troops. Devastation can take place without a significant military presence.⁵³ In deciding whether to lead a nation into war under these circumstances, it is only reasonable to consider the danger presented by the threatening nation or regime.

[*15] Although many earlier just war writings, especially the U.S. bishops' 1983 pastoral letter,⁵⁴ focused on the weapons without paying particular attention to the bearer of such weapons, some commentators have addressed the significance of the regime possessing the weaponry.⁵⁵ Just war theorist (and papal biographer) George Weigel has put together a very strong case suggesting that the danger presented by a given regime must become part of the just war determination. Some nations are more threatening than others:

It makes little moral sense to suggest that the United States must wait until a North Korea or Iraq or Iran actually launches a ballistic missile tipped with a nuclear, biological, or chemical weapon of mass destruction before we can legitimately do something about it. Can we not say that, in the hands of certain kinds of states, the mere possession of weapons of mass destruction constitutes an aggression - or, at the very least, an aggression-waiting-to-happen?>

The Threat is Imminent:

Nuclear proliferation is happening now—the threat is imminent

Biegun and Wolfsthal 2007[Bridging the Foreign Policy Divide: A Full-Court Press Against Nuclear Anarchy By Steve E. Biegun and Jon B. Wolfsthal April 2007, page 3]

“In the end, we may not succeed. At the current pace of proliferation, it seems likely that new nuclear powers will yet emerge in this decade. With the large number of nuclear weapons in various arsenals around the world—under what may be described as, at best, suspect security—the theft of a device at some point is a distinct possibility. With the growth of terrorist organizations of global reach, the delivery of a nuclear weapon to America’s shores is by no means far-fetched. The explosion of such a device on US territory would then be only a matter of time. If we are to succeed in meeting the challenge of proliferation, we must act—now—as if our lives depend upon it. Someday, they actually might.”

The type of regime is an important consideration:

Consideration of the type of regime is necessary in assessing the threat required for preemptive action

Ronald J. Rychlak - Professor of Law, Associate Dean for Academic Affairs, the University of Mississippi - JUST WAR THEORY, INTERNATIONAL LAW, AND THE WAR IN IRAQ – Ave Maria Law Review – Spring 2004 – L/N

<Weigel calls this new consideration the "regime factor," and he notes that it is particularly important in this day and age of weapons of mass destruction.⁵⁷ Such weapons are "not aggressions-waiting-to- [*16] happen when they are possessed by stable, law-abiding states. No Frenchman goes to bed nervous about Great Britain's nuclear weapons, and no sane Mexican or Canadian worries about a pre-emptive nuclear attack from the United States."⁵⁸ On the other hand, when such weapons are possessed by nations that are unstable or led by tyrants, they become very significant threats.⁵⁹

Weigel finds a consideration of the regime crucial to the moral analysis. In particular, preemptive military action to deny the rogue state that kind of destructive capacity [from weapons of mass destruction] would not, in my judgment, contravene the "defense against aggression" concept of just cause. Indeed, it would do precisely the opposite, by giving the concept of "defense against aggression" real traction in the world we must live in, and transform.⁶⁰>

Altering the immanence standard is key:

Altering the immanence standard is necessary to account for rogue states and terrorists who would proliferate to group that are immanent threats

John C. Yoo & Will Trachman - Professor of Law, University of California at Berkeley School of Law (Boalt Hall); Visiting Scholar, American Enterprise Institute - WAR, INTERNATIONAL LAW, AND SOVEREIGNTY: REEVALUATING THE RULES OF THE GAME IN A NEW CENTURY: Less than Bargained for: The Use of Force and the Declining Relevance of the United Nations – Chicago Journal of International Law – Winter 2005 – L/N

<Altering the current international understanding of the term "imminence" is therefore critical. The standard that we adopt for the term must not be so constraining as to invite its breach -- either by the United States, or by other nations that in the near future also find themselves anxious about potential terrorist attacks. n40 This standard could provide benefits in the way we think of terrorism and rogue states. Terrorism undermines the imminence standard because states may have no warning of an imminent attack from a terrorist organization. In the case of international terrorism of the kind we witnessed on September 11, 2001, a nation might have information about locations of terrorist personnel or assets, but at a time that is distant from the time of an actual attack. Terrorists, as we saw with al Qaeda, carry out attacks by surprise with individuals disguised as civilians attacking civilian targets. In such circumstances, the imminence standard simply does not permit a nation to use force within the available window of opportunity when that force could prevent the attack.

Understanding that the imminence standard has changed helps us to understand the war in Iraq. One of the problems with Iraq is that it potentially threatened not just to develop weapons of mass destruction, but also to secretly proliferate them to other nations and groups that might be hostile to the United States. Again, the imminence standard is very difficult to apply because a proliferator might not necessarily pose an imminent threat of attacking the United States, but could be passing on weapons to people or groups who would use them. The window of opportunity in which to attack the proliferators, and not those who would actually use the weapons, might be exceedingly small.>

The current approach to self defense under international law leaves states open to new threats and attacks

John Yoo - Professor of Law, University of California at Berkeley – “Using Force” –
University of Chicago Law Review – Summer 2004 – L/N

<In responding to these threats, nations are limited under formal international law to the right to self-defense. Attacks by terrorists or rogue nations may not leave time for resort to the United Nations, and other great powers may have reason to veto resolutions that address the dangers posed by rogue nations. Yet, the current approach to self-defense under international law leaves nations ill-equipped to handle these new types of threats. Waiting until an attack is in progress, or an attack is temporally imminent, may allow the risk of a successful attack to become far too high, a risk that is compounded by the potentially destructive effect of weapons of mass destruction. This Part proposes that we reconceptualize the imminence requirement of self-defense to take into account the magnitude of the harm of a possible attack and the probability that it will occur, rather than focusing myopically on temporal imminence.>

International Law provides so standard for imminence in self defense

John Yoo - Professor of Law, University of California at Berkeley – “Using Force” –
University of Chicago Law Review – Summer 2004 – L/N

<International law does not supply a precise definition of when a threat is sufficiently "imminent" to justify the use of force in self-defense. Even outside the use-of-force context, although the term "imminent" is used in a variety of international agreements, it is rarely defined. The dictionary definition of "imminent" focuses on the temporal,⁶⁹ but we can reconfigure the concept of imminence under international law to go beyond the temporal proximity of the threat. Temporal imminence has the effect of setting the bar too high on how probable an attack may be. Thus, under the Caroline test, a blow is imminent when it is just about to land -- the probability of the attack is virtually 100 percent. It ignores the magnitude of destruction of the attack, so that the minor and temporary border incursion that gave rise to the Webster-Ashburton correspondence receives the same treatment as a possible nuclear attack. In either case, under doctrine and conventional academic wisdom, a nation would be restricted from using force in self-defense in both circumstances until just before the attack would occur. Imminence also does not take into account windows of opportunity and the reduced harm that could be caused by more limited attacks. Imminence doctrine would prevent a nation from using force against an enemy, such as a terrorist operative, who comes into clear view at a time when his attack is not temporally imminent, but who could then disappear or disguise his future attack within a civilian population. Using force at an earlier time might reduce civilian casualties and the costs of the attack. [*752]

It seems unrealistic to limit the cases that satisfy the imminence requirement to those circumstances in which an attack is about to occur. For example, international law must allow the right to use force when an attack is certain or almost certain to occur even if it is still some time off. Even the International Court of Justice, for example, has attempted to expand the understanding of imminence, in the context of determining whether sufficient necessity exists to relieve a state of its international obligations. Some international law authorities would permit a state to invoke necessity as a ground for failing to comply with an international obligation if "the act was the only means of safeguarding an essential interest of the State against a grave and imminent peril."⁷⁰>

Anticipatory self defense is legitimate when it is necessary to prevent an imminent attack.

Allen S. Weiner, *The Use of Force and Contemporary Security Threats: Old Medicine for New Ills?*, *Stanford Law Review*, November 2006, *lexis*.

<The most plausible rationale for the unilateral use of force against a state perceived to present a WMD threat under the prevailing use of force regime is the doctrine of anticipatory self-defense.⁸¹ Despite the language in Article 51 recognizing the right of self-defense "if an armed attack occurs," many states and commentators assert that a state need not await its adversary's "first, perhaps decisive, military strike" before it may use force to protect itself.⁸² [*438] Currently, there is reasonably widespread support for the notion that states may use force when a threatened armed attack is imminent and no other means would thwart it.⁸³ Could the use of force against states that present a WMD threat be justified under this doctrine of anticipatory self-defense? Advocates of a right of anticipatory self-defense differ on the theory underlying the asserted right.⁸⁴ Whether they affirm the existence of the right [*439] as a reserved inherent right, or as a manifestation of an evolving interpretation of the Charter, however, proponents of the right have traditionally subjected it to requirements comparable to those derived from *The Caroline Case*.⁸⁵ This means that if force may be used in anticipatory self-defense, it may be used only where force is necessary to prevent an adversary's attack ("leaving no choice of means"), and where the attack to be prevented is imminent (the need to use force is "instant" and leaves "no moment for deliberation").⁸⁶>

A more flexible standard of defense is necessary to allow states to deal with the threat of global terrorism

John Yoo - Professor of Law, University of California at Berkeley – “Using Force” –
University of Chicago Law Review – Summer 2004 – L/N

<The virtues of a more flexible standard in the use of force become clearer in the context of terrorism. Groups such as the al Qaeda terrorist organization have a demonstrated hostility toward the United States and have shown their ability to launch devastating attacks on American targets both at home and abroad. Further, as shown by the case of Jose Padilla, such groups seek to use weapons of mass destruction against American domestic targets.¹³⁵ Given the clear intention and the magnitude of potential harm, the primary factor governing the use of force against al Qaeda terrorists will be how close to completion their attacks are. If their efforts are less well developed, then surgical, less destructive attacks would be permissible; if they are further along, more force might be used. A defending state could use force to specifically target known terrorist leaders who are planning attacks, even if the exact nature of those attacks are unknown, so long as the strikes are limited. This could come close to violating the presidential ban on assassination, but as Abraham Sofaer and Hays Parks have explained, assassination prohibits only murder and not killings undertaken in legitimate self-defense from attack.¹³⁶ [*775]

Contrast this result to the one that would obtain under a traditional imminence approach. States could not use force until just before a terrorist attack was about to occur, regardless of whether the attack was a conventional bombing of a bank or an effort to use a radioactive dirty bomb. States could not take advantage of a window of opportunity in which they locate a terrorist operative whose attack is not temporally imminent. They might be forced to wait in the hopes that the terrorist will reappear closer to the time of attack, even though he might be surrounded by civilians. The more flexible approach would allow states to target terrorists whenever (and wherever) they appear, even if their attack might be days, weeks, or months off. Given that terrorists operate by receding into the civilian population and launching an attack by surprise, an earlier sighting may be the only window in which a state could use force preemptively. Under this approach, unlike the current view, the potential terrorist use of weapons of mass destruction would allow force to be used earlier and with greater destructiveness.>

Imminence standards need to be laxed due to the nature of the threat of rogue states and terrorists with nuclear weapons

Gregory Maggs - Professor of Law, George Washington University Law School -
SYMPOSIUM: A NUCLEAR IRAN: THE LEGAL IMPLICATIONS OF A
PREEMPTIVE NATIONAL SECURITY STRATEGY: HOW THE UNITED STATES
MIGHT JUSTIFY A PREEMPTIVE STRIKE ON A ROGUE NATION'S **NUCLEAR
WEAPON** DEVELOPMENT FACILITIES UNDER THE U.N. CHARTER. - Syracuse
Law Review – 2007 – L/N

<We must adapt the concept of imminent threat to the capabilities and objectives of today's adversaries. Rogue states and terrorists do not seek to attack us using conventional means. They know such attacks would fail. Instead, they rely on acts of terror and, potentially, the use of weapons of mass destruction - weapons that can be easily concealed, delivered covertly, and used without warning.⁷⁰

The NSS 2002 concludes that "the magnitude of potential harm that could be caused by our adversaries' choice of weapons, do not permit" the [*479] option of waiting until an attack already has occurred.⁷¹ The NSS 2002 therefore endorses the use of preemptive force to prevent threats from arising. The NSS 2006 repeats this view.⁷²

This position also has other policy arguments in its favor. Professor Philip Bobbitt, for example, has written that "preemption [is] an absolute necessity" given the "disguised" nature of terrorist attacks.⁷³ Mutual assured destruction - a theory of defense consistent with a requirement of an armed attack - cannot prevent nuclear strikes against the United States if the United States does not have a clear enemy at which to strike back. And the use of force in self-defense in response to an imminent attack cannot protect the United States if the United States does not know when a strike is about to occur. So if the United States wants to protect itself, perhaps it must prevent the creating of weapons of mass destruction that may fall into terrorists' hands.>

International Law Bad:

International Law Fails to Account for New Realities:

International Law needs to be re-envisioned in the light of the new threats states face in order to avoid future violations of this doctrine

Michael Skopets – “Battered Nation Syndrome: Relaxing the Imminence Requirement of Self-Defense in International Law” – American University Law Reviews – February 2006 – L/N

<An objective standard is not always applicable to national self-defense claims in the modern political structure - when faced with a threat, a nation will act as it feels it must, especially when its survival is at stake.¹³¹ Yet many scholars assert that a nation should not be its own arbiter in determining whether its self-defense justification is legitimate.¹³² To this end, military experts and experts in [*782] international relations and diplomacy can play the same role as expert witnesses in a BWS trial by providing subjective insight into the motives and perceptions of threatened nations.

Furthermore, the determination of whether a nation acted within the law is just as important for the well-being of the international legal order as it is in the determination of the legal consequences facing that nation.¹³³ International law "derives from state behavior and it affects state behavior"¹³⁴ - customary international law is based on generally accepted state practices.¹³⁵ In domestic law, the long-standing concept of desuetude posits that a law becomes obsolete through a history of non-enforcement in the face of its violation.¹³⁶ Desuetude is just as applicable in international law, whereby a doctrine based on customary international law or a treaty can become obsolete if nations consistently violate it with no repercussions.¹³⁷ If nations disregard anticipatory self-defense laws because of the impractical strictness of the imminence requirement, the international legal system will suffer whether a nation in a particular incident is justified or not. There is a need, therefore, to clarify and modify existing laws and treaties that govern the use of force in self- [*783] defense so they can be more reflective of the subtleties of international conflicts and will less likely be flouted by the members of the international community.>

Just war theory in light of new advancements in weapons and warfare prove why international organizations are not sole arbiters of the justness of state actions responding to threats

Ronald J. Rychlak - Professor of Law, Associate Dean for Academic Affairs, the University of Mississippi - JUST WAR THEORY, INTERNATIONAL LAW, AND THE WAR IN IRAQ – Ave Maria Law Review – Spring 2004 – L/N

<In order to apply the just war theory to the modern world, it is wise first to trace that doctrine back to its origins, focusing on how and why it has developed over the centuries. It is particularly important to evaluate new ideas that are brought about by developments in weaponry and weapon delivery systems. It is also appropriate to consider recently proposed developments in just war thinking that take into consideration the new threats posed to the modern world by terrorists and terrorist nations.

When just war theory is properly understood, one is led to the conclusion that the authority to make the final decision to go to war rests with national sovereigns. They have the obligation to protect their citizenry from outside threats. For that reason, they must determine when war is just. Alternative institutions, like the United Nations, the Church, or an international tribunal, are not necessarily superior decision-makers, and they may even be less qualified to fill this role due to political or pastoral reasons.

This is not to say that churches and international organizations have no role to play. Religious and political advisors can help identify the factors that should be considered by the sovereign, but they cannot be expected to give authoritative determinations when it comes to advance approval of military actions. Similarly, they cannot authoritatively determine when a given war would be unjust. History, and perhaps an international court, will one day evaluate the sovereign's decisions, but that will have to be an after-the-fact determination.

In recognizing that national leaders have to make the decisions about war and peace, it is also necessary to give them the discretion to fully assess the situation. The efforts of the twentieth century to reduce the just war decision to "a set of rigorous conditions which must be met"² is a flawed, legalistic way of looking at the just war [*3] doctrine. At some point in the process, that legalistic approach must give way to the "art" of politics. This requires the application of practical reason to the question of the common good, not the application of mechanistic legalism.>

Pre-emptive self defense laws must take into account new advancements that have changed the nature of immanence – preemptive force against a rogue nuclear threat is justified

Joseph L. Falvey, Jr. - Associate Dean for Academic Affairs and Associate Professor of Law at Ave Maria School of Law - OUR CAUSE IS JUST: AN ANALYSIS OF OPERATION IRAQI FREEDOM UNDER INTERNATIONAL LAW AND THE JUST WAR DOCTRINE – Spring 2004 – L/N

<For centuries, international law recognized that nations need not suffer attack before they can lawfully take action to defend themselves against forces that present an imminent danger of attack. Legal scholars and international jurists often conditioned the legitimacy of preemption on the existence of an imminent threat - most often a visible mobilization of armies, navies, and air forces preparing for attack.

We must adapt the concept of imminent threat to the capabilities and objectives of today's adversaries. Rogue states and terrorists do not seek to attack us using conventional means. They know such attacks would fail. Instead, they rely on acts of terror and, potentially, the use of weapons of mass destruction - weapons that can be easily concealed, delivered covertly, and used without warning... .

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 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. ³¹

Thus, to the Bush administration, the doctrine of "preemptive" self-defense is merely an adaptation of the long-recognized doctrine of "anticipatory" self-defense. Technological advances that permit terrorists and rogue states to inflict grave injury, particularly through the use of weapons of mass destruction, necessitated this adaptation. Accordingly, preemptive self-defense would justify armed response to a perceived threat that, although less imminent than massing forces, poses a significant threat to national security.>

Current use of force rules do not account for changes in technology and the source of threats

John Yoo - Professor of Law, University of California at Berkeley – “Using Force” –
University of Chicago Law Review – Summer 2004 – L/N

<A second reason to modify the use-of-force rules is that they do not address the recent changes in technology and political organization that pose threats to nations. The easier availability of weapons technology, the emergence of rogue states, and the rise of international [*750] terrorism have presented more immediate threats to national security than those from attack by other nation-states. As articulated by the Bush administration's national security strategy, these different developments mean that an attack can occur without warning, because its preparation has been covert and it can be launched by terrorists hiding within the civilian population. This renders the imminence standard virtually meaningless, because there is no ready means to detect whether a terrorist attack is about to occur. Terrorist groups, which have no territory or population to defend, may not be deterrable and may not be swayed by nonviolent pressure to cease hostile activities. Rogue nations pose similar problems. States that have withdrawn from the international system, have few ties to the international economy, and repress their civilian populations to maintain dictatorships may also prove substantially undeterrable through methods short of force. Both terrorists and rogue nations, moreover, do not demonstrate much desire to follow international legal rules -- indeed, by attacking civilians, terrorist organizations violate the core principle of the laws of war -- and hence there is little reciprocal value for nations to obey the restraints on the use of force. Nations would only be placing themselves at a permanent disadvantage in following the limitations on the use of force against an enemy that itself refused to be bound by them.>

U.N. Charter Fails:

Those who advocate strict adherence to the Charter offer a plan of inaction in the face of danger, not peace and security

Robert J. Delahunty - Associate Professor of Law, University of St. Thomas School of Law - SYMPOSIUM ON REEXAMINING THE LAW OF WAR: PAPER CHARTER: SELF-DEFENSE AND THE FAILURE OF THE UNITED NATIONS COLLECTIVE SECURITY SYSTEM – Catholic University Law Review – Spring 2007 – L/N

< [*954] More importantly, to revert to Charter rules because of the coalition's unhappy experience in Iraq would hardly solve contemporary problems of international security. As Robert Keohane has argued, such an approach assumes that the *status quo* is sufficiently acceptable that deadlock will not generate disaster. In a world of weapons of mass destruction, actively sought by governments and potential terrorist groups, this assumption is not realistic. It is based not on the world as we know it, but on a more benign, imaginary world. ³⁹⁶

Those who advocate strict compliance with the Charter's use of force regime are offering a formula, not for peace and security, but for inaction in the face of danger. Are we really safer in a world in which the Security Council routinely issues resolutions condemning Iraq's or North Korea's weapons programs, while Iraq and North Korea routinely and with impunity defy them?>

The U.N. Charter provides an outmoded system of rules governing the use of force

John C. Yoo & Will Trachman - Professor of Law, University of California at Berkeley School of Law (Boalt Hall); Visiting Scholar, American Enterprise Institute - WAR, INTERNATIONAL LAW, AND SOVEREIGNTY: REEVALUATING THE RULES OF THE GAME IN A NEW CENTURY: Less than Bargained for: The Use of Force and the Declining Relevance of the United Nations – Chicago Journal of International Law – Winter 2005 – L/N

<Today, however, the United Nations' rules on the use of force have become obsolete. Some scholars have written that the Charter began its march toward obsolescence soon after its initial conception. n10 It is no longer the Cold War rivalry, however, that has rendered the Charter's use of force irrelevant. The major threat to international peace and security today does not come from the threat of conflict between great powers. Threats arise from international terrorist [*382] organizations, proliferation of weapons of mass destruction, and rogue nations. n11 In the modern era, the shift from conventional to unconventional warfare compels us to question whether the UN's current approach continues to make sense.

Does the emergence of modern terrorism signal the end of the usefulness of the United Nations Charter's rules on the use of force? Certainly the international landscape at the time of the adoption of the UN Charter was very different than the landscape we face today. The UN Charter system was designed to prevent future wars between great powers. World Wars I and II, wherein large nation-states with huge mechanized armies invaded one another, were the Charter's target. The Charter embraced an international system that mirrors the criminal law -- a system in which there would be a supranational government that would attempt to hold a monopoly on the use of force. As with domestic government, the UN would provide each nation security against attack in exchange for its monopoly on the use of force. As with an individual under domestic criminal law, a state cannot use force against another state, except in self-defense. Just as one's personal response to an attack in self-defense is justified in many domestic legal systems, a response in the international context would similarly be justified by the system established by the UN Charter. n12>

The failures and dangers of international law lead states to either violate these norms or withdraw entirely

John C. Yoo & Will Trachman - Professor of Law, University of California at Berkeley School of Law (Boalt Hall); Visiting Scholar, American Enterprise Institute - WAR, INTERNATIONAL LAW, AND SOVEREIGNTY: REEVALUATING THE RULES OF THE GAME IN A NEW CENTURY: Less than Bargained for: The Use of Force and the Declining Relevance of the United Nations – Chicago Journal of International Law – Winter 2005 – L/N

<Like all international organizations, the United Nations seeks to facilitate the bargains made between states. But the function of these organizations ceases to be productive when nations feel a compelling need to consistently violate the substantive norms embodied in the agreement. Whether international organizations can successfully constrain member nations depends in part on whether these nations receive a benefit from continuing to adhere to the bargain established in the international agreement. A strict reading of the UN Charter [*384] would prevent the United States from taking action to protect its national security or to take steps to maintain international security. At some point, the cost of the strict reading could outweigh the benefits that the United States receives -- or what the world receives from American uses of force that maintain international peace and stability -- from complying with the UN Charter. This situation will either cause the United States to ignore the UN Charter rules, replace them with new rules, or simply withdraw from the UN Charter system entirely.

The case presented by Iraq demonstrates the costs of strict adherence to the UN Charter in a world of new security threats. Although debate will continue over whether Saddam Hussein could reasonably have been thought to possess weapons of mass destruction or links to al Qaeda, it does seem clear that the presence of Hussein's regime in the region was creating great instability. Hussein had used the Iraqi army and military capabilities to wage several wars in the region, including aggressive invasions of Iran and Kuwait. Hussein had also caused billions of dollars in damage and killed thousands of civilians both in his own and in neighboring countries. n16 Only an expensive system of military containment and economic sanctions kept that instability in check. n17>

There is no evidence that the U.N. Charter's rules for the use of force have succeeded in decreasing the amount of conflict in the world

John Yoo - Professor of Law, University of California at Berkeley – “Using Force” –
University of Chicago Law Review – Summer 2004 – L/N

<A supporter of the UN Charter system might take solace from these numbers, in that they might be read to suggest that the prohibition on the use of force between nations has succeeded in producing the decline in interstate wars during the postwar period. International legal scholars, however, have not demonstrated that the use-of-force rules have had anything to do with this reduction. Only a case-by-case analysis of the manner in which international legal rules had affected governmental decisionmaking could determine whether such rules have had such an effect, and the few that exist to date do not indicate that the international legal rules on self-defense, for example, have constrained the United States.⁶⁶ In fact, as noted, many if not most scholars believe that the rules on the use of force have been widely flouted. Instead, leading political scientists and diplomatic historians attribute the reduced number of interstate wars and the stability of the international system generally during the Cold War period to the bipolar balance of power between the United States and the Soviet Union. Professor John Lewis Gaddis, for example, argues that the 1945-1991 period should not be thought of as a cold war but as a "long peace," in which nuclear deterrence and American and Soviet studiousness in avoiding direct conflict led to a period of general peace.⁶⁷ Kenneth Waltz, the founder of neorealism in international relations theory, argues that in an international system characterized by anarchy and self-interested states, a bipolar distribution of power between two superpowers will lead to greater international stability and relative peace.⁶⁸ I am not aware of any scholars who have shown that the UN Charter rules on the use of force are themselves responsible for the reduction in interstate wars between the great powers.>

Existing legal doctrines have failed to prevent the spread of WMDs by terrorist-sponsored states. U.N doctrines are ineffective in the face of such threats

Christopher Clarke Posteraro - Georgetown University, School of Foreign Service - INTERVENTION IN IRAQ: TOWARDS A DOCTRINE OF ANTICIPATORY COUNTER-TERRORISM, COUNTER-PROLIFERATION INTERVENTION – Florida Journal of International Law – Fall 2002 – L/N

<None of the existing legal doctrines adequately account for the unprecedented threat of terrorist-sponsoring states that pursue weapons of mass destruction. Attempts to justify international military action begin with the U.N. Charter. The problem is that the U.N. Charter presents an excellent device for confronting the threats to the international system as they existed before 1945.²⁶⁷ While the United Nations has inevitably been the forum of much debate on the propriety of international responses to terrorism, its attempts to confront terrorism have been "patchy and often ineffective."²⁶⁸ Confronted with the convergence of shadowy, transnational terror networks and rogue states that disregard international law, the world cannot rely on ineffective U.N. intervention doctrines. The cost of continued inadequacy could be devastating.>

Collective Security Has Failed:

The Collective Security System as per the U.N. Charter has failed for decades at keeping international peace and reducing the rate of war

Robert J. Delahunty - Associate Professor of Law, University of St. Thomas School of Law - SYMPOSIUM ON REEXAMINING THE LAW OF WAR: PAPER CHARTER: SELF-DEFENSE AND THE FAILURE OF THE UNITED NATIONS COLLECTIVE SECURITY SYSTEM – Catholic University Law Review – Spring 2007 – L/N

<It has long seemed obvious to informed commentators that the Charter system of collective security has failed. ²⁷⁰ Indeed, this failure was becoming [*927] obvious almost as soon as the Charter was ratified: the emergence of *selective* security systems like the North Atlantic Treaty Organization (NATO) in 1949--in effect, traditional defensive military and political alliances--attests to the swiftness with which the Charter system broke down. ²⁷¹

The record of six decades proves that collective security has *not* kept the peace: in the post-Charter world, war and aggression have been only too common. ²⁷² Major wars in which the Security Council had not in terms authorized the use of force include: the Second Gulf War and ensuing conflicts in Iraq (2003-); the Arab-Israeli conflict (1948-); the Iran-Iraq war (1980-1988); the civil wars in Sudan (1983-), Congo (1998-), Rwanda and Burundi (1963-1995), Mozambique (1975-1993), Ethiopia (1962-1992), and Nigeria (1966-1970); the post-colonial and civil wars in Indo-China (1960-1975); and the Bangladeshi war of independence (1971). Writing in 1986, the British scholar Evan Luard found that since 1945, there had been 144 "wars," of which he classified 29 as "international wars . . . in which at least two sovereign states were in direct conflict," 16 as wars of decolonization, and 66 as civil wars. ²⁷³ In 1997, A. Mark Weisburd found that "states used force so frequently in the period 1945 through 1991 (over 110 times) that it seems impossible to say that, in [*928] practice, states do not use force against one another." ²⁷⁴ Michael Glennon wrote in 2002: Between 1945 and 1999, two-thirds of the members of the United Nations--126 states out of 189--fought 291 interstate conflicts in which over 22 million people were killed. This series of conflicts was capped by the Kosovo campaign in which nineteen NATO democracies representing 780 million people flagrantly violated the Charter. ²⁷⁵

Not only has the Charter's collective security system failed to *prevent* war, it has apparently not even reduced the *rate* of war. John Yoo recently noted:

According to the Correlates of War database, from 1816 to 1945, fifty-six interstate wars occurred, a rate of 0.43 per year. From 1945 to 1997, that rate is 0.44 per year. A different study found that from 1715 to 1814 there were thirty-six interstate wars, from 1815 to 1914 there were twenty-nine wars, from 1918 to 1941 there were twenty-five interstate wars, and then from 1945 to 1995 there were thirty-eight wars. According to these figures, the rate of interstate wars either roughly remained the same or increased during the period of the UN Charter and the League of Nations. ²⁷⁶>

The failure of the collective security system has undermined the legitimacy of the U.N. as a representation of societies collective will

Robert J. Delahunty - Associate Professor of Law, University of St. Thomas School of Law -
SYMPOSIUM ON REEXAMINING THE LAW OF WAR: PAPER CHARTER: SELF-
DEFENSE AND THE FAILURE OF THE UNITED NATIONS COLLECTIVE
SECURITY SYSTEM – Catholic University Law Review – Spring 2007 – L/N

<The failure of the collective security system has undermined, and will continue to undermine, the claim that the Security Council is and should be "a normative framer of the collective will." ³³³ As discussed further below, the "legitimacy" of the United Nations depends in great measure on its "effectiveness." If the United Nations is no more effective than the League of Nations was in maintaining world peace, then it will eventually become no more legitimate than the League. Yet, it has long been obvious that the threat of United Nations collective action against "aggression" is not a credible deterrent. If state *A* perceives state *B*'s nuclear weapons program as an impending--if not yet "imminent"--threat to its existence or security, then *A* will have strong reason to bypass the Security Council altogether and to act (either unilaterally or with its allies) to preempt the threat from *B*. Given the chronic failure of the Council to mobilize in collective defense against threats to the peace, *A* will know that the Council is unlikely to come to its assistance against *B*. *A*'s assessment will be still more plausible if, as is often the case, *B* enjoys the support of a permanent member of the Council, which can be counted on [*939] to veto or weaken collective action against it. On the other hand, given the existence of great power rivalries on the Council, *A* will know that the Council is most unlikely to sanction *it* by measures of collective defense should it attack *B* preemptively to eliminate the threat. Again, *A*'s assessment will normally be confirmed if *A* is aligned with a permanent member of the Council. The retort of the Secretary General's High-level Panel--"that if there are good arguments for preventive military action, with good evidence to support them, [state *A*] should . . . put [them] to the Security Council," ³³⁴ will hardly seem sufficient to *A* when it is faced with such an existential threat. Rather than expecting states to submit to the Council's "normative" authority in such situations, we would expect to find--and we do find--states pressing for a more expansive understanding of "self-defense.">

Strict Adherence to International Law Bad:

Strict adherence to international law would be a less favorable world than what it exists now

Robert J. Delahunty - Associate Professor of Law, University of St. Thomas School of Law - SYMPOSIUM ON REEXAMINING THE LAW OF WAR: PAPER CHARTER: SELF-DEFENSE AND THE FAILURE OF THE UNITED NATIONS COLLECTIVE SECURITY SYSTEM – Catholic University Law Review – Spring 2007 – L/N

<First, scholars such as Professors Richard Falk and Mary Ellen O'Connell argue that the Charter system needs little or no change; change must instead come from greater compliance with Charter norms by states that have acted in breach of them, especially the United States.³⁵⁸ Thus, Richard Falk proposes that member states should "take more seriously their own obligations to uphold the Charter" and offers [*944] that "it may be appropriate in this spirit to revive attention to the so-called Uniting for Peace Resolution 337A that confers a residual responsibility on the General Assembly to act when the Security Council fails to do so."³⁵⁹ Falk does nothing to explain how the members could be persuaded to take their Charter obligations more seriously, or why the Uniting for Peace Resolution of 1950 should be any more efficacious fifty-six years later than it was when originally adopted, or what reason there is to think that the General Assembly would make a more effective custodian of international peace than the Security Council. In an earlier article, Falk further argued that the United States "would benefit from a self-imposed discipline of adherence to the UN Charter system governing the use of force" because such a policy "would overcome the absence of geopolitical limits associated with countervailing power in a unipolar world," correct "tendencies of the United States and others to rely too much on military superiority," and enable the United States to "avoid[] the worst policy failures, including that of Vietnam," which Falk associates with "[d]eviations from the Charter system."³⁶⁰ But most of these asserted benefits could accrue to the United States even if it did *not* adhere to the Charter system. For example, the United States could mitigate resentment of its dominant global position by playing a less interventionist role in world affairs and reverting to its traditional role of "offshore balancer."³⁶¹ Or again, if the United States is indeed overreliant on military superiority, it could simply reduce its military budget and scale down its military presence abroad, or perhaps emphasize foreign aid and free trade programs more heavily. Moreover, Falk provides little reason to think that adherence to the Charter regime would produce a more peaceful, less violent world overall. A world in which the United States and its allies were fully compliant with Charter rules, but their adversaries opportunistically exploited such compliance and disregarded the same use of force rules would create asymmetric vulnerabilities for the United States that would become increasingly hard to tolerate. Strict legality, far [*945] from creating favorable conditions for global peace, is likely to mean that because of the rival interests of the Council's permanent members, the dangers posed by states like North Korea or Iran will grow unattended. Still less does Falk show that a world of stricter Charter compliance by the United States would be a world in which human rights were better protected or democratic institutions more prevalent. Greater compliance with the Charter would mean that the United States would be less likely to participate in collective humanitarian efforts, such as in Kosovo, or to seek to democratize regimes that brutally

oppressed their populations, as in Iraq. Finally, Falk is on weak grounds in claiming that American infractions of the Charter have coincided with policy failures. The 1962 Cuban "quarantine" was a Charter infraction, but it protected a vital national security interest. Nearer in time, the U.S.-led intervention in Kosovo--another clear Charter infraction ³⁶²--helped suppress ethnic conflict in the area and led eventually to the collapse of the Milosevic government.>

International Cooperation Not Possible – via Realism:

A successful and legitimate peaceful world order is impossible.

John Mearsheimer, *The Tragedy of Great Power Politics*, Norton and Company, 2001.

<Great powers cannot commit themselves to the pursuit of a peaceful world order for two reasons. First, states are unlikely to agree on a general formula for bolstering peace... Second, great powers cannot put aside power considerations and work to promote international peace because they cannot be sure that their efforts will succeed. If their attempt fails, they are likely to pay a steep price for having neglected the balance of power, because if an aggressor appears at the door there will be no answer when they dial 911.>

States aim to ensure their survival; alliances are only formed in the pursuit of self-interest.

John Mearsheimer, "The False Promise of International Institutions," *International Security*, Vol. 19, No. 3 (Winter, 1994-1995), 5-49.

<Second, each state in the international system aims to guarantee its own survival. Because other states are potential threats, and because there is no higher authority to rescue them when danger arises, states cannot depend on others for their security. Each state tends to see itself as vulnerable and alone, and therefore it aims to provide for its own survival. As Kenneth Waltz puts it, states operate in a "self-help" system. This emphasis on self-help does not preclude states from forming alliances. But alliances are only temporary marriages of convenience, where today's alliance partner might be tomorrow's enemy, and today's enemy might be tomorrow's alliance partner. States operating in a self-help world should always act according to their own self-interest, because it pays to be selfish in a self-help world. This is true in the short term as well as the long term, because if a state loses in the short run, it may not be around for the long haul.>

Cooperation is difficult because states are concerned with gains in relative power.

John Mearsheimer, “The False Promise of International Institutions,” *International Security*, Vol. 19, No. 3 (Winter, 1994-1995), 5-49.

<Because states in a realist world are concerned about the balance of power, they must be motivated primarily by relative gains concerns when considering cooperation. While each state wants to maximize its absolute gains, it is more important to make sure that it does better, or at least no worse, than the other state in any agreement. However, cooperation is more difficult to achieve when states are attuned to relative-gains logic, rather than absolute-gains logic. This is because states concerned about absolute gains need only make sure that the pie is expanding and that they are getting at least some portion of the increase, while states that worry about relative gains must care also about how the pie is divided, which complicates cooperative efforts.>

Concerns about cheating prevent cooperation; cooperation only occurs when it coincides with a state’s self-interest.

John Mearsheimer, “The False Promise of International Institutions,” *International Security*, Vol. 19, No. 3 (Winter, 1994-1995), 5-49.

<Concerns about cheating also hinder cooperation. States are often reluctant to enter into cooperative agreements for fear that the other side will cheat on the agreement and gain a relative advantage. There is a “special peril of defection” in the military realm, because the nature of military weaponry allows for rapid shifts in the balance of power. Such a development could create a window of opportunity for the cheating state to inflict a decisive defeat on the victim state. These barriers to cooperation notwithstanding, states do cooperate in a realist world. For example, balance-of-power logic often causes states to form alliances and cooperate against common enemies. The bottom line, however, is that cooperation takes place in a world that is competitive at its core—one where states have powerful incentives to take advantage of other states.>

The Presumption against Violence is Flawed:

Assumptions that the just war tradition begins with a presumption against violence invert the structure of moral analysis and lead to dubious moral judgments and a distorted perception of political reality

Ronald J. Rychlak - Professor of Law, Associate Dean for Academic Affairs, the University of Mississippi - JUST WAR THEORY, INTERNATIONAL LAW, AND THE WAR IN IRAQ – Ave Maria Law Review – Spring 2004 – L/N

<Weigel also takes a different starting point than do some other just war theorists. He asserts that "the claim that a "presumption against violence" is at the root of the just war tradition cannot be sustained historically or theologically."⁶⁴ As he notes, this assertion is less an innovation than a return to the original understanding of just war theory going back to St. Augustine:

Those scholars, activists, and religious leaders who claim that the just war tradition "begins" with a "presumption against war" or a [*18] "presumption against violence" are quite simply mistaken. It does not begin there, and it never did begin there. To suggest otherwise is not merely a matter of misreading intellectual history (although it is surely that). To suggest that the just war tradition begins with a "presumption against violence" inverts the structure of moral analysis in ways that inevitably lead to dubious moral judgments and distorted perceptions of political reality.⁶⁵

Similarly, noted just war historian James Turner Johnson has argued that the just war tradition begins with the classic moral judgment that "the sovereign has a moral duty to pursue the public good, even at the risk of his own life."⁶⁶ In other words, the theory "starts with a "presumption for justice," not a "presumption against violence."⁶⁷

Citizens of a nation are entitled to protection from external as well as internal threats.⁶⁸ If leaders determine that the nation must resort [*19] to protective arms, the just war theory permits them to do just that. >

Moral Obligation to stop Nuclear proliferation:

Iraq was ultimately justified. When aggressive regimes acquire weapons of mass destruction there is a moral obligation to rid the world of this threat to peace and security

Joseph L. Falvey, Jr. - Associate Dean for Academic Affairs and Associate Professor of Law at Ave Maria School of Law - OUR CAUSE IS JUST: AN ANALYSIS OF OPERATION IRAQI FREEDOM UNDER INTERNATIONAL LAW AND THE JUST WAR DOCTRINE – Spring 2004 – L/N

<The above analysis indicates that the threat posed by the Hussein regime was real, that our cause was just, and that further diplomatic action would have proven futile. Had the United States dismissed the threat Hussein's regime posed, many more innocents could have suffered. If the Iraqi dictator fully realized his ambitions of developing weapons of mass destruction, then history would look unfavorably upon our leaders for failing in their duty to avert such a tragedy. Moreover, even if the United States erred in assessing the gravity of the threat from the Iraqi regime, the war liberated the Iraqi people from a brutal despotic tyrant, serving a humanitarian purpose. Such a result should mitigate any error President Bush may have made in assessing the necessity of waging war. ¹⁰¹

In fact, real peace, the "tranquility of order" spoken of in the Catechism, ¹⁰² presupposes - requires - victory over tyrants such as Hussein.

The peace of order is ... under grave threat when vicious, aggressive regimes acquire weapons of mass destruction - weapons that we must assume, on the basis of their treatment of their own citizens, these regimes will not hesitate to use against others. That is why there is a moral obligation to ensure that this lethal combination of irrational and aggressive regimes, weapons of mass destruction, and credible delivery systems does not go unchallenged. That is why there is a moral obligation to rid the world of this threat to the peace and security of all. Peace, rightly understood, demands it. ¹⁰³>

Weapons of Mass Destruction pose as great a threat as the humanitarian crises of the 1990s. States that pursue them fail to live up to bare minimum levels of state responsibility

Christopher Clarke Posteraro - Georgetown University, School of Foreign Service - INTERVENTION IN IRAQ: TOWARDS A DOCTRINE OF ANTICIPATORY COUNTER-TERRORISM, COUNTER-PROLIFERATION INTERVENTION – Florida Journal of International Law – Fall 2002 – L/N

<International law has, for too long, regarded self-defense as a right of sovereigns rather than a responsibility. But, sovereignty carries with it a responsibility to protect citizens from preventable harm from both within and without state borders. Weapons of mass destruction pose a threat of complete destruction equal to or greater than even the cataclysmic humanitarian crises of the 1990s. The responsibility of states to prevent mass murder of their citizens is just as imperative against foreign enemies as from homegrown threats.

States that pursue the development and acquisition of weapons of mass destruction fundamentally fail to live up to the bare minimums of state responsibility that the international community must demand.²⁷³ The threat of chemical, biological, and nuclear weapons to destroy whole countries and to decimate entire populations cannot hide behind a decaying concept of sovereignty as the carte blanche of state conduct. The relationship between individuals and governments that this reconceptualization of sovereignty produces demands that states act decisively to uphold their responsibility to protect their people.>

U.S. Policy Should Shape World Politics:

U.S. policy should be the means by which international stability and peace is achieved

Robert J. Delahunty - Associate Professor of Law, University of St. Thomas School of Law - SYMPOSIUM ON REEXAMINING THE LAW OF WAR: PAPER CHARTER: SELF-DEFENSE AND THE FAILURE OF THE UNITED NATIONS COLLECTIVE SECURITY SYSTEM – Catholic University Law Review – Spring 2007 – L/N

<That leaves the third possibility--reliance on the United States' domestic political process, coupled with its coalition-building diplomacy, for countermeasures to threats to international stability and peace.

The current United States national security strategy assumes that this approach will couple effectiveness with at least a fair degree of legitimacy. Moreover, whatever one's final assessment of that strategy, it represents a reasonable attempt to adapt to an international environment that is both highly threatening to the United States and yet full of promise for it.

Two main characteristics of this post-cold war international environment have helped determine the United States' strategy. First, deterrence has become much harder than it was in the cold war, when the [*952] United States and the Soviet Union arrived at a nuclear stalemate that, in the end, protected the peace. But the United States' ability to deter, or even to identify and trace, the sources of terrorist threats to use weapons of mass destruction is considerably less. Second, the United States' cold war victory appeared to leave it with an extraordinary, and likely unrepeatable, opportunity to mold the international order more closely to its own image. This combination of motive with opportunity led directly to the two key components of the United States security strategy: first, the emergence of a very robust doctrine of preventative self-defense because the traditional Cold War reliance on the threat of massive retaliation would not work against elusive terrorist enemies; and second, the willingness to act unilaterally because the support of other nations was deemed not worth the cost of securing their consent. Both of these American strategic doctrines have put the Charter system under severe strain: the first, because it requires a reconsideration of the limits of anticipatory self-defense that had taken hold under the sway of the Charter; the second, because it encouraged the United States and at least some of its allies to bypass the Charter's procedural requirements for authorizing collective action under Article 42.>

International law has failed. It is time for the United States to take leadership in shaping a new global world in the face of serious threats

Christopher Clarke Posteraro - Georgetown University, School of Foreign Service - INTERVENTION IN IRAQ: TOWARDS A DOCTRINE OF ANTICIPATORY COUNTER-TERRORISM, COUNTER-PROLIFERATION INTERVENTION – Florida Journal of International Law – Fall 2002 – L/N

<If international law fails to address its own inadequacies, it risks abandoning any claim that it has meaning in shaping state behavior in the post-September 11th world. Michael Glennon has observed that "[n]o rules will work that do not reflect underlying geopolitical realities." A conflict is coming, and it will be fought for legitimate reasons.²⁷⁹ Now, the United States must show leadership in the establishment of new rules of international law that can lead to a sustainable and legitimate international legal order. This order should be grounded not in the manipulations of attorneys in the Legal Advisor's office attempting to fit the square of the legitimacy of U.S. action against Iraq into the circle of antiquated international legal doctrine. Rather, the order should announce that it has commenced a new era of legitimate conduct that will establish a new rule of the international law of the use of force.

The so-called Bush Doctrine articulates a portion of such a new rule of international law. President Bush announced that: "[f]rom this day forward, any nation that continues to harbor or support terrorism will be considered by the United States as a hostile regime."²⁸⁰ That doctrine, however, should add a more explicit warning for Iraq and other states that pursue weapons of mass destruction: if a hostile regime also pursues the acquisition or development of chemical, biological or nuclear weapons, the decisive use of anticipatory military force to end that regime is a legitimate response.

AT: Deterrence Solves Risk of Nuclear War:

Deterrence may have been applicable during the cold war but deterrence via proliferation will not always work.

David J. Karl, "Proliferation Pessimism and Emerging Nuclear Powers," *International Security*, Vol. 21, No. 3. (Winter, 1996-1997), pp. 87-119.

<In contrast, proliferation pessimists are profoundly skeptical of inferring an auspicious nuclear future from the Cold War's history, and worry instead that proliferation is likely to have pernicious consequences for regional security.¹³ Drawing upon scholarship on the "17th-country" problem, this viewpoint stresses that important contextual variables differentiate the nuclear relationship between the superpowers from any others that are likely to arise. Rejecting claims for the prototypical character of the U.S.-Soviet nuclear relationship, pessimists warn against "transposing the argument of the was-preventing function of nuclear weapons to regions outside the East-West system." In their view, "the stability of nuclear deterrence between East and West rest[ed] on a multitude of military and political factors which in other regions are either totally missing or are only partially present."⁴ According to pessimists, the stability of U.S.-Soviet nuclear deterrence was a function of the singular political and geostrategic character of the Cold War. The territorial separation of the superpowers, the absence of a previous legacy of hostility, the status-quo orientation of their leaderships, coupled with the simplicity of bipolar rivalry, made for a uniquely benign security environment with redundant sources of stability. Proliferation outside this context, however, would occur in regions of the world where politico-military conditions are acutely prone to conflict. With many Third World states being traditional enemies and in close proximity, conflict is endemic and quickly comes to engage critical interests. Because proliferation would occur within existing chronic patterns of conflict, one scholar contends that "leaders may be ready to risk nuclear confrontation, if not even to accept a surprisingly high level of nuclear damage, in pursuit of their objectives."¹⁵ A tradition of inter-state conflict within these regions will also socialize states so that they consider military force, even nuclear weapons, in terms of waging war, rather than in terms of deterrence.¹⁶ Because of these differences, pessimists doubt the near-absolute capacity for deterrence that optimists attribute to nuclear weapons in general.>

Empirically, nations will use preventative strikes which undermine deterrence logic.

David J. Karl, "Proliferation Pessimism and Emerging Nuclear Powers," *International Security*, Vol. 21, No. 3. (Winter, 1996-1997), pp. 87-119.

Proliferation pessimists, on the other hand, are doubtful that new nuclear powers will remain immune to preventive-war temptations. Preventive-war thinking was a staple of Cold War history. Prominent U.S. military leaders advocated preventive action against the Soviet Union in the late 1940s and early 1950s, and both superpowers contemplated military action to prevent Chinese development of nuclear weapons in the 1960s. By some accounts, the 1967 Middle East war was caused by Egypt's desire to thwart Israel's development of a nuclear weapon capability.³⁰ In the mid-1970s, Moscow may have also sounded out Washington on the preemptive destruction of South Africa's uranium enrichment plant, and the United States may have given serious thought to sabotaging Pakistan's fledgling nuclear program.³¹ The post-Cold War period also resonates with preventive logic, most fully exemplified by the U.S. "Counterproliferation Initiative." U.S. attacks against Iraqi nuclear development facilities in the Persian Gulf War and against the Zaafarniyah nuclear fabrication complex in early 1993, as well as the Clinton administration's threat to strike North Korea's nuclear installations, may prefigure a policy of preempting the emergence of nuclear weapon capabilities in the Third World. In 1991 the Bush administration reportedly directed the Central Intelligence Agency to "develop plans, including covert action, to block proliferation of weapons of mass destruction. Recently senior Israeli officials, in a reprise of the fears that brought about their attack on Iraq's Osirak nuclear reactor, were reportedly considering attacks against Iranian reactors.³⁴

Deterrence proves ineffective against terrorists

Lawrence Freedman - *professor of war studies at Kings College in London* "Prevention, Not Preemption" - Spring 2003, Washington Quarterly,

It is difficult to argue with the principle that it is better to deal with threats as they develop rather than after they are realized. This may be especially true when those threats originate "at the crossroads of radicalism and technology," as President George W. Bush warned in his June 2002 West Point commencement address. This intersection now affords certain rogue actors in the international system the opportunity to acquire weapons of mass destruction (WMD) and to contemplate their use. Under such circumstances, Bush warned that deterrence, evidently successful during the Cold War against a risk-averse adversary, would prove ineffective. Against stateless and militant terrorist groups who have shown little evidence of cautious decisionmaking, it might be necessary to take the initiative. The much-quoted September 2002 U.S. National Security Strategy (NSS) officially advocated preemption to address these threats. Yet, as this document acknowledges, deterrence still has a role in certain situations while preemption, widely cited as the new fulcrum of U.S. security strategy, was never ruled out in the past. New circumstances may very well call for a new strategy, but this transition is unlikely to take the form of a simple switch from deterrence to preemption. Both concepts harken back to earlier periods in international relations, and although they are not wholly obsolescent, neither can form the basis of a new strategy.

Because new nations lack positive mechanisms of civilian control like professional military organizations, these future nuclear armed states will lack the decision-making capacity to support deterrence

Scott Sagan - "The Perils of Proliferation: Organization Theory, Deterrence theory, and the Spread of Nuclear Weapons," - *International Security*, Vol. 18, No. 4. (spring, 1994) - JSTOR

<First, I argue that professional military organizations-because of common biases, inflexible routines, and parochial interests-display strong proclivities toward organizational behaviors that lead to deterrence failures. Whereas the widespread psychological critique of rational deterrence theory maintains that many political leaders lack the cognitive capabilities or emotional stability to make deterrence work this organizational critique argues that professional military organizations, if left on their own, are unlikely to fulfill the operational requirements for rational nuclear deterrence. Second, I argue that such organizational proclivities can be effectively countered only by tight and sustained civilian control of the military. Unfortunately, there are strong reasons to believe that future nuclear-armed states will lack such positive mechanisms of civilian control. Many current and emerging proliferators either have military-run governments, or have weak civilian-led governments in which the professional military has a strong and direct influence on policy-making. In such states, the biases, routines, and parochial interests of powerful military organizations, not the "objective" interests of the state, can determine state behavior. These problems can be compounded by the fact that such militaries are "inward-looking," focusing on internal issues of domestic stability and politics, rather than on external threats to national security. Extensive military involvement in domestic affairs, however, changes the focus of officers' energies and interests, and the military's professional competence as a fighting force (and therefore also as a deterrent) suffer. Finally, some new nuclear states have been "born nuclear": Ukraine, Belarus, and Kazakhstan inherited nuclear weapons from the Soviet Union, without inheriting its stable civil-military relations, historical learning experience, or extensive command and control mechanisms.>

Nations do not always act rationally because of bounded calculations and political influence in goal setting

Scott Sagan - "The Perils of Proliferation: Organization Theory, Deterrence theory, and the Spread of Nuclear Weapons," - *International Security*, Vol. 18, No. 4. (spring, 1994) - JSTOR

Two widespread themes in the organization theory literature focus attention on the major impediments to pure rationality in organizational behavior. First, large organizations function within a severely "bounded" form of rationality: they have inherent limits on calculation and coordination and use simplifying mechanisms to understand and respond to uncertainty in the external environment.¹⁵ Organizations, by necessity, develop routines to coordinate action among different units: standard operating procedures and organizational rules, not individually reasoned decisions, therefore govern much behavior. Organizations commonly "satisfice": rather than searching for the policy that maximizes their utility, they often accept the first option that is minimally satisfying. Organizations are often myopic: instead of surveying the entire environment for information, organization members undertake biased searches, focusing only on specific areas stemming from their past experience, recent training, and current responsibility. Organizations suffer from "goal displacement": they often become fixated on the operational means to the ends and lose focus on the overall objectives.¹⁶ Organizational filters continually shape the beliefs and actions of individuals. As James March and Herbert Simon put it, "the world tends to be perceived by the organization members in terms of the particular concepts that are reflected in the organization's vocabulary. The particular categories it employs are reified, and become, for members of the organization, attributes of the world rather than mere convention."¹⁷ Second, complex organizations commonly have multiple conflicting goals and the process by which objectives are chosen and pursued is intensely political.¹⁸ Such a political perspective envisions apparently irrational behaviors as serving the narrow interests of some units within the organization, even if the actions appear "systematically stupid" from the leadership's overall perspective. Organizations are not simply tools in the hands of higher level authorities, but are groups of self-interested and competitive sub-units and actors. "Theory should see conflict as an inevitable part of organizational life stemming from organizational characteristics rather than from the characteristics of individuals," Charles Perrow has argued. Organizational divisions and responsibilities help explain why "sales and production [are] in conflict in all firms . . . or faculty and administration in colleges, doctors and nurses and administrators in hospitals, the treatment and custodial staffs in prisons." In military organizations, weapon system operators often have different interests than their commanders, units in the field have different interests than the command headquarters, and a particular service has different interests than the Joint Chiefs of Staff. Even when a professional military service or command acts in relatively rational ways to maximize *its* interests-protecting its power, size, autonomy or organizational essence such actions do not necessarily reflect the organizational interests of the military as a whole, much less the national interests of the state. To the degree that narrow organizational interests determine state behavior, the expected-utility theory of a rational unitary actor is seriously undermined.

MAD Theory fails – nuclear states and terrorist organizations have little regard for international stability and the well-being of their populations

Allen S. Weiner & Warren Christopher - Professor of the Practice of International Law and Diplomacy, Stanford Law School and Freeman Spogli Institute for International Studies at Stanford - The Use of Force and Contemporary Security Threats: Old Medicine for New Ills?. Stanford Law Review - November, 2006 – L/N

We live in dangerous times. The September 11, 2001 terrorist attacks against the World Trade Center and the Pentagon inflicted casualties and devastation not sustained on American soil since the Civil War. Exploiting the world's growing interdependence, global terror networks lurk in the shadows, plotting attacks that could strike anywhere against population centers without notice. The world's most dangerous states - illiberal regimes with little regard for international stability - threaten to develop weapons of mass destruction (WMD) and use the specter of nuclear, chemical, or biological weapons attacks to intimidate and dominate others. Fanatical terrorist groups and authoritarian regimes more committed to their own survival than the well-being of their populations exhibit disdain for the lives of both their adversaries and their own forces, undermining the utility of the traditional security policy of deterrence. Changing technologies, which allow countries or terrorist groups with virtually no conventional military capabilities to inflict great devastation on their adversaries, have undermined the traditional security policy of containment. As a result, although it may be difficult to imagine for those of us raised in the age of the strategic doctrine of "mutually assured destruction," the current security climate is perhaps even more unsettled and dangerous than the one that prevailed during the Cold War, when nuclear superpowers maintained a balance of terror by aiming thousands of nuclear warheads at one another's cities.

Deterrence is ineffective at solving nuclear rogue states

Francis Gavin - President and Fellow of Harvard College and the Massachusetts Institute of Technology - "Blasts from the Past Proliferation Lessons from the 1960s" - *International Security* 29.3 (2004) 100-135

The National Security Strategy document issued by the George W. Bush administration in 2002 portrays a world far different from that of the past. The Cold War was dangerous, but according to this document, its lessons are largely irrelevant to the making of contemporary U.S. strategy. After the 1962 Cuban missile crisis, the United States faced a "status quo, risk-adverse" adversary—the Soviet Union—that believed that weapons of mass destruction should be used only as a last resort. In contrast, the United States is currently confronted by "rogue states" that "brutalize their own people," "threaten their neighbors," "sponsor terrorism," and "hate the United States and everything for which it stands." Most important, rogue states "are determined to acquire weapons of mass destruction" to "achieve the aggressive designs of these regimes." In so doing, they have created a world that is far "more complex and dangerous" than the international system of the 1960s. As a result, Cold War concepts such as deterrence are ineffective in a "security environment that has undergone profound transformation."¹

Rogue nations can't be deterred.

Jeffrey Record, *Nuclear Deterrence, Preventive War, and Counterproliferation*, Policy Analysis, No. 519, 8 June 04.

The 9/11 attacks a decade later spawned proclamation of a new use-of-force doctrine calling for preventive military action against so-called "rogue states" seeking to acquire nuclear weapons. The doctrine reflected a loss of confidence in traditional nuclear deterrence; rogue states, it was believed, were irrational and might launch attacks on the United States or transfer weapons of mass destruction to terrorist organizations. Thus the global war on terrorism, highlighted by the preventive war against Iraq, became as much a war of counterproliferation as it was a war on terrorism.

Rogue nations can't be deterred and require use of military force.

Jeffrey Record, *Nuclear Deterrence, Preventive War, and Counterproliferation*, Policy Analysis, No. 519, 8 June 04.

<...rogue states do not regard WMD as weapons of last resort, but rather as “militarily useful weapons of choice intended to overcome our nation’s advantages in conventional forces and to deter us from responding to aggression against our friends and allies in regions of vital interest.”⁴⁷ With respect to counterproliferation, it declares, “We must enhance the capabilities of our military, intelligence, technical, and law enforcement communities to prevent the movement of WMD materials, technology, and expertise to hostile states and terrorist organizations.”⁴⁸ It also calls for “capabilities to detect and destroy an adversary’s WMD assets before these weapons are used.”⁴⁹>

Deterrence doesn't work for nuclear terrorism

David Krieger – “What Happens If...? Terrorists, Revolutionaries, and Nuclear Weapons – *Annals of the American Academy of Political and Social Science* – Vol 430 – March 1977 – pp.44-57

<Nuclear terrorists would have the advantage of choosing whether or not to identify themselves for publicity purposes. But even while identifying themselves, they could remain unlocatable and thus untargetable for retaliation. This, of course, nullifies the basic premise of deterrence theory, namely that a nuclear attack can be prevented by fear of retaliation. Clearly, if terrorists cannot be located, they have no need to fear retaliation, and thus deterrence in this context becomes meaningless. Further, some terrorists may be assumed to be so alienated that they would not be deterred even if located and certain to die if they carried out their threat. Of course, a nuclear bomb could be detonated remotely, even in another city, by telephone signal. An interesting variant of the above would be for the atomic terrorists to claim to be a group on which they desired to bring public enmity, or upon which they desired to inflict the retaliatory might of the threatened nation. When terrorists have deliberately misidentified themselves, one wonders whether or not national leaders would be capable of responding intelligently, under possibly panic conditions.>

Nations are deterrable; non-state actors are not

Harold Brown, "New Nuclear Realities" *The Washington Quarterly* 31.1 (2007) 7-22

<Nations are deterrable, at least with regard to nuclear attacks on the United States. This notion applies even to totalitarian states with a charismatic, all-powerful leader. It takes more than one person to launch a nuclear attack, and the prospect of lethal retaliation and personal extinction is likely to inhibit the execution of the ordered attack by some in the chain. Even if Washington decided that nuclear retaliation was not the most appropriate response to a nuclear attack on one or two U.S. targets, the regime that launched it and those responsible would not survive. Nonetheless, a Hitler with nuclear weapons, facing a lost conventional war, would not leave one entirely confident about that line of reasoning to assure deterrence. Even if governments, however problematic their behavior and intentions, can with considerable confidence be deterred from using nuclear weapons, with the possible exception of their behavior in the face of total military defeat and prospective loss of national existence, there remains the problem and prospect of acquisition of nuclear weapons by nonstate actors. Some of these entities, with transnational character and motivations that go beyond normal political goals, have shown a willingness to employ any available weapon to cause maximum damage to civilian targets. There is no reason to believe that they would balk at the use of nuclear weapons (or biological ones, which have less predictable, less immediate, and less controllable effects). These groups have few assets to be held at risk of retaliation, though in the case of religiously motivated groups there may be shrines or centers that could serve that purpose. It has been suggested that the threat to destroy religious centers sacred to the extremists might work. The effect on relations with the rest of their nonterrorist coreligionists, however, would make that deterrent less than convincing.

Proliferation Bad:

General:

Proliferation causes threats to security and peace.

Daniel H. Joyner, The Proliferation Security Initiative: Nonproliferation, Counterproliferation, and International Law, *The Yale Journal of International Law*, Summer 2005, lexis.

Concerns flowing from the reality of WMD proliferation have been aggravated in recent years due to the emergence of state actors as well as sophisticated and maturing groups of non-state actors with both the resource base and either the ideological or the strategic incentive to acquire and contemplate the use of WMD for the accomplishment of objectives perceived by many of the most powerful members of the international community as inimical to international peace and security. The rise to prominence and capability of complex and well-funded crossborder organizations -- the practices of which include the use of terroristic and violent actions calculated to bring about desired objectives grounded in what are alleged by their intended victims to be non-rational ideologies -- that are suspected of having access to or being in the process of developing WMD has in recent years formed a threat nexus continually on the lips of international officials.⁵³

Proliferation forces nations to use preventative strikes which undermine deterrence logic.

David J. Karl, "Proliferation Pessimism and Emerging Nuclear Powers," *International Security*, Vol. 21, No. 3. (Winter, 1996-1997), pp. 87-119.

Given this record, proliferation pessimists doubt that new nuclear powers should prove any more resistant to preventive temptations than their historical predecessors. Indeed, they fear that the resistant properties of Third World nuclear states will prove even weaker, especially in countries with turbulent civil-military relations. Sagan, for instance, contends that military establishments generally have strong professional and organizational biases toward preventive options.³⁵ Drawing upon scholarship that applies organization theory to the behavior of military bureaucracies, he argues that professional socialization leads military officers to see war as inevitable and sometimes necessary, inclining them in turn to think in a "better now than later" logic and to favor offensive doctrines.³⁶ Military establishments, like all large enterprises, also possess strong autonomy-seeking proclivities. Sagan worries that these organizational pathologies, which he illustrates with evidence from the U.S. civil-

military relationship, will dictate action in new nuclear states where institutional civilian controls over the military are weak.³⁷

Nuclear proliferation is an urgent issue:

Biegun and Wolfthstal - Bridging the Foreign Policy Divide: A Full-Court Press Against Nuclear Anarchy - April 2007, page 3]

<Considering which governments have recently acquired or are actively seeking a nuclear weapon, and understanding the likelihood that a nuclear-armed terrorist movement might not be far behind, it is impossible to avoid the sense that we are losing control of nuclear weapons proliferation. Priorities for action must be identified right away. Policymakers must assess where the threats are greatest and where the proliferation chain is most vulnerable, and clarify what steps must be taken immediately and what can wait in order to formulate an effective response. At this juncture, no good idea should be put aside, and every element of policy must be vigorously reenergized—from multilateral diplomacy to military preemption. The consequences of failure are too catastrophic to approach the issue with anything less than the utmost urgency.”>

Threat of Nuclear Terrorism:

Preventing the acquisition of nuclear weapons is necessary otherwise they will fall into the hand of terrorists.

David Krieger, "Ten Reasons to Abolish Nuclear Weapons," *Issues*, 2005, Nuclear Age Peace Foundation

The very existence of nuclear weapons and their production endanger our safety because they are susceptible to terrorist exploitation. Nuclear weapons and production sites all over the world are vulnerable to terrorist attack or to theft of weapons or weapons-grade materials. Russia, due to the breakup of the former Soviet Union, has a weakened command and control system, making their substantial arsenal especially vulnerable to terrorists. In addition, nuclear weapons are not helpful in defending against or responding to terrorism because nuclear weapons cannot target a group that is unlocatable.

Terrorists are not deterred from using nuclear weapons.

"Nuclear Proliferation and Terrorism," *CQ Researcher*, CQ Press, April 2, 2004

During the Cold War, both the United States and the Soviet Union understood that using nuclear weapons would amount to mass suicide. The doctrine of mutual assured destruction – MAD – ensured that a nuclear attack by one superpower would unleash a full-scale response by the other, resulting in annihilation on a national, if not global, scale. Consequently, the theory went, rational leaders would avoid using nuclear weapons at all costs. But al Qaeda and other radical Islamist organizations don't appear to operate under such constraints. Their suicide bombers embrace death as martyrdom in their quest to destroy the "Great Satan." And because they operate in a number of countries and have no permanent, identifiable headquarters, terrorist groups also have no "Return address" to target for a counterattack. As a result, keeping weapons-grade plutonium and highly enriched uranium out of the hands of terrorists is the only sure way to block terrorists from building nuclear bombs, many experts say. "The essential ingredients of nuclear weapons are very hard to make and don't occur in nature," notes Matthew Bunn, a nuclear-terrorism expert at the Belfer Center. "But once a well-organized terrorist group gets hold of them, it could make at least a crude nuclear explosive."

Rogue states can acquire and give WMDs to terrorist organizations easily under the international system of control via the U.N. Charter

John Yoo - Professor of Law, University of California at Berkeley – “Using Force” –
University of Chicago Law Review – Summer 2004 – L/N

<At the same time, the possible magnitude of destruction that terrorists or rogue states can inflict upon the United States has increased. While terrorism and rogue states have existed in the past, the ability of terrorists to launch surprise attacks, or the hostile intentions of isolated, paranoid regimes, might not have posed such a threat to national security when they could mount only limited conventional attacks. This allowed nations to address these problems through a variety of means short of armed attack. The possibility, however, that terrorist groups might acquire weapons of mass destruction, either on their own or from rogue states, places renewed pressure on the limitations imposed on the use of force by the UN Charter system. Terrorists attack without warning, and the possibility that they might acquire weapons of mass destruction increases the harm that might occur from a sudden attack. This only decreases the time to respond, reduces the effectiveness of nonviolent measures, and encourages states to try to intervene well before weapons of mass destruction are acquired. Developed in the age of sailing ships and the Concert of Europe, the UN Charter and Caroline approaches do not seem likely to control non-state actors or states that disavow participation in the international system, and hence also may not prove to be an obstacle to nations that feel threatened by them. [*751] >

The proliferation of nuclear states poses an even great risk of a nuclear terrorist threat

Sheena Chestnut - *International Security Studies at Stanford University's Center for International Security and Cooperation* - "Illicit Proliferation and Activity: North Korean Smuggling Networks." - *International Security*, Vol. 32, No. 1, Summer 2007 pp. 80–111 - JSTOR

In addition to their implications for understanding North Korea, these findings reject an evolution in the characterization of proliferation threats in two main ways. First, although recent articles have stressed a shift from statebased proliferation toward networked proliferation, this analysis has largely been contextualized in reference to the nuclear transfers orchestrated by Pakistani scientist A.Q. Khan. It has therefore focused on increasing domestic control of dual-use exports through measures such as United Nations resolution 1540.⁹ The DPRK case suggests that these measures are likely to overlook the significant risk posed by illicit smuggling networks. Much has been said about the problem of illicit nuclear smuggling in the former Soviet Union, but relatively little has discussed how criminal networks might be used as deliberate tools by other states pursuing or assisting nuclear proliferation. Without understanding the capabilities and motivations of future proliferators, the international community may underestimate their willingness and ability to transfer nuclear material or components. Second, the increasing participation of criminal actors in proliferation networks creates additional opportunities for proliferation to take place outside of state control, lending increased weight to the argument made by organizational theorists that nuclear weapons, once created, cannot always be effectively controlled.¹¹ For these reasons, the involvement of criminal networks in proliferation portends a dangerous future if nuclear states multiply. It is therefore imperative to track and curtail illicit networks not only to reduce the intrinsic social and economic costs they impose, but also to increase the effectiveness of countersmuggling efforts for deterring and defending against the transfer of nuclear materials and components.

Terrorists have no fear of retaliation and the inability to locate makes a nuclear attack easy and impossible to deter

David Krieger – “What Happens If...? Terrorists, Revolutionaries, and Nuclear Weapons – *Annals of the American Academy of Political and Social Science* – Vol 430 – March 1977 – pp.44-57

<As a matter of policy, the U.S. government refuses to negotiate for the release of Americans who have been kidnapped. Would it adopt a similar no-negotiation policy for the "release" of Americans who were in effect being held hostage by a nuclear bomb threat to New York or Chicago? Nuclear terrorists would have the advantage of choosing whether or not to identify themselves for publicity purposes. But even while identifying themselves, they could remain unlocatable and thus untargetable for retaliation. This, of course, nullifies the basic premise of deterrence theory, namely that a nuclear attack can be prevented by fear of retaliation. Clearly, if terrorists cannot be located, they have no need to fear retaliation, and thus deterrence in this context becomes meaningless. Further, some terrorists may be assumed to be so alienated that they would not be deterred even if located and certain to die if they carried out their threat. Of course, a nuclear bomb could be detonated remotely, even in another city, by telephone signal.>

Democracy and Terrorism cannot co-exist

John H. Nuckolls - "Post-Cold War Nuclear Dangers: Proliferation and Terrorism" -
Science, Volume 267, No. 5201, 1995

In a terrorism scenario, terrorists detonate nuclear explosions in major cities. Such acts of nuclear terrorism would trigger the implementation of emergency controls to prevent smuggling of nuclear weapons and materials. Unsuccessful attempts to prevent smuggling of drugs suggest that extreme police state controls would be required to be effective. These self-imposed controls and mass public reactions (such as, perhaps, de facto abandonment of population centers) would paralyze commerce and strangle the freedom and openness that are fundamental elements of democracy. Democracy and nuclear terrorism cannot coexist.

Evaluation of capabilities to prevent terrorist attacks triggers a sequence of questions about countering terrorist organizations; preventing leakage of nuclear weapons, materials, and experts; ensuring adequate warning; detecting nuclear materials and explosives being smuggled across national boundaries; ensuring that a terrorist nuclear explosive located in a city can be disarmed without accidentally creating a nuclear explosion; and ensuring attribution, that is, ensuring that the origin of a captured or exploded nuclear weapon and the identity of the terrorists responsible can be determined.

The link between rogue states and terrorist groups is impossible to discern as all communications are covert, making proliferation to these groups very easy

David Krieger – “What Happens If...? Terrorists, Revolutionaries, and Nuclear Weapons – *Annals of the American Academy of Political and Social Science* – Vol 430 – March 1977 – pp.44-57

<We can imagine, for example, another Middle Eastern nation clandestinely creating nuclear weapons in the same way Israel is purported to have done and then turning some of them over to a terrorist group with whom its leader sympathizes. Or the nuclear weapon may be given to the terrorist group as payment for other activities the national leader wants accomplished. In either case, the agreement would most likely be secret, so that the national donor would not be held culpable for the terrorist use of the weapon. The situation could become even more confused and dangerous if the terrorist group claimed publicly to have received the nuclear weapon from an innocent party, thereby generating a retaliatory response against the innocent party. In certain cases, this could conceivably result in international war. The above example, as with others, points out the difficulty of drawing a hard line between national goals and terrorist goals. In the future, as in the past, national leaders may work clandestinely to achieve certain goals through the activities of terrorist groups. Some of these goals may involve the use of nuclear weapons, and others may involve the trade of nuclear weapons for terrorist services rendered. Based on past performance, can we doubt that certain national leaders would be capable of such behavior? Moreover, we cannot safely dismiss the possibility that these leaders will eventually acquire nuclear weapons or that other leaders of this disposition will come to power in nuclear-weapon states of the future.>

Non-state actors probably cannot construct nuclear weapons by themselves, but they can acquire the necessary materials from state actors; therefore preventing proliferation is a higher priority than ever

Harold Brown, "New Nuclear Realities" *The Washington Quarterly* 31.1 (2007) 7-22

The possibility of nuclear weapons acquisition by transnational terrorists creates dangers of a new dimension. Acquisition might occur through deliberate transfer from a state for its own ends, through transfer from some group within a fractured state, by theft of bombs or of fissile material of a sort that can be made into a bomb with modest technical and industrial facilities, or, much less feasibly, by building a bomb from scratch. That argues for greatly increased efforts to prevent to the extent possible further proliferation and to safeguard existing stocks of fissile material. **[End Page 13]** Fortunately, the chance of such groups developing and constructing nuclear weapons from scratch themselves is low. Although the information revolution and the global growth of open and black markets have put critical technologies in reach of many new actors, the major technical and industrial facilities required are beyond terrorist groups' means. This is not the case, however, for chemical or even some biological agents. Yet, they may be able to obtain nuclear weapons or fissile material, much of which is less well-guarded, by purchase, transfer, or leakage from states that have them. A few critical masses of weapons-grade uranium can be turned into a nuclear bomb with modest technical facilities, whereas plutonium takes more advanced facilities to make into a bomb. In either case, characteristics of the fissile material or of the nuclear debris from an exploded bomb could provide evidence of the source, if we had assembled a library of such characteristics.⁴ In sum, the demonstrated diffusion of potential and actual nuclear weapons capability to additional states, the cascade effect likely to result as neighbor emulates neighbor, and the possibility of leakage to undeterrable nonstate actors make nonproliferation of nuclear weapons a higher priority than ever. That includes preventing the acquisition of nuclear weapons by states that do not now have them, rolling back existing capabilities to the extent feasible, and safeguarding existing stockpiles from transfer or leakage. The strongest possible measures to inhibit acquisition of nuclear weapons by nonstate actors are surely justified.

Nuclear Accidents:

Proliferation only increases the likelihood of nuclear accidents by states – 4 reasons

Scott Sagan - "The Perils of Proliferation: Organization Theory, Deterrence theory, and the Spread of Nuclear Weapons," - *International Security*, Vol. 18, No. 4. (spring, 1994) - JSTOR

"The Perils of Proliferation: Organization Theory, Deterrence Theory, and the Spread of Nuclear Weapons," Scott D. Sagan Spring, 1994, International Security, Professor of political science and co-director of Stanford's Center for International Security and Cooperation

First, some emergent nuclear powers lack the organizational and financial resources to produce even minimal mechanical safety devices and safe weapons design features. Although all countries may start with "crude nuclear arsenals," in Waltz's terms, the weapons of poorer states will likely be more crude, and will remain so for a longer period of time. Evidence for this prediction can be found in the case of the Iraqi nuclear weapons program, as UN inspectors discovered soon after the 1991 Persian Gulf War:

The inspectors found out one other thing about the Iraqi bomb [design]-it is highly unstable. The design calls for cramming so much weapon-grade uranium into the core, they say, that the bomb would inevitably be on the verge of going off-even while sitting on the workbench. "It could go off if a rifle bullet hit it," one inspector says, adding: "I wouldn't want to be around if it fell off the edge of this desk."⁹⁹

Second, the "opaque" nature of nuclear proliferation in the contemporary world exacerbates nuclear weapons safety problems. Fearing the international diplomatic consequences of a public crossing of the nuclear threshold, most new proliferants have developed weapons capabilities in a covert manner.' Israel, South Africa, Pakistan, and possibly North Korea fit this pattern. There are, however, both organizational and technical reasons to believe that - this opaque path to nuclear weapons status is inherently less safe: the tighter compartmentalization of such programs means that there is likely to be less thorough monitoring of safety efforts; the lack of public debate about nuclear issues in such states increases the likelihood that military organizational interests will not be challenged; and the inability to have full-scale nuclear weapons tests will inhibit safety design efforts.¹⁰⁰

Third, accident-prone nuclear operations will be more prevalent in states with volatile civil-military relations because military officers, who have organizational biases in favor of maintaining high readiness for war, will be less constrained by safety-conscious civilian authorities.¹⁰¹ Pakistan is the most worrisome case in point. The Pakistani Air Force plans to use U.S. F-16 aircraft in nuclear weapons delivery roles if necessary, and yet in 1992 former Director of Central Intelligence Robert Gates suggested that Pakistan had not perfected the electrical mechanisms necessary for safe maintenance, transportation, and delivery of weapons by F-16s.¹⁰² The existence of such safety problems makes the reports that the Pakistani Air Force, without informing Prime Minister Bhutto, loaded nuclear

weapons on its F-16 aircraft during the 1990 Kashmir crisis even more alarming than previously recognized.¹⁰³

Fourth, the tight-coupling problem will be significantly worse between most new proliferants at the beginning of their experience in managing nuclear weapons, since they are in closer proximity to their expected adversaries than was the case between the United States and the Soviet Union. At the start of the Cold War, the superpowers had many hours to determine whether a warning was real or false during the strategic bomber era; later, in the 1960s, they had approximately 30 minutes to react to reports of ICBM attacks; and only after many years of experience with nuclear arsenals did they face less than 10 minutes of warning time once missile submarines were deployed off each other's coasts in the 1970s. New and potential future nuclear rivals-Russia and Ukraine, India and Pakistan, North and South Korea-will immediately have very small margins of error at the outset of nuclear rivalries, since they have contiguous borders. Moreover, the poorer of these states are likely to have less reliable warning systems trying to operate successfully in this more challenging environment.

Nuclear inheritance, such as post-Soviet bloc countries, is even more difficult to monitor and the disposal is very dangerous

Scott Sagan - "The Perils of Proliferation: Organization Theory, Deterrence theory, and the Spread of Nuclear Weapons," - *International Security*, Vol. 18, No. 4. (spring, 1994) - JSTOR

Fifth, although organizational learning about safe nuclear weapons operations was far from perfect in the United States and the USSR during the Cold War, it is likely to be even worse in states that inherited a full-scale nuclear arsenal without going through the incremental process of tests, exercises, and deployments. The emerging problems of nuclear safety in the Ukraine appear to be the product of its unusual status as an "instant" nuclear power. In September 1993, Major General Vitaly Yakovlev of the Russian Defense Ministry reported that a squad of Russian nuclear warhead specialists had been sent to the Ukrainian nuclear ammunition depot at Pervomaisk (170 miles south of Kiev) because of increased radiation levels discovered inside the base. According to Moscow press reports, a subsequent investigation by Russian nuclear scientists determined that "Ukrainian storage depots were filled over capacity, necessary maintenance was not being carried out, rules for transporting warheads were being ignored and up-to-date safety systems were absent."⁴ In October 1993, Colonel General Yevgeny Maslin, chief of the Russian General Staff's nuclear ammunition department, reported that two nuclear warheads emitting dangerous levels of radioactivity had been kept for two weeks inside a railroad car on the Ukraine-Russian border, because Ukrainian custom officials demanded payment for any nuclear weapons taken to Russia for dismantlement.⁵ Such nuclear safety problems may be the first signs that serious dangers.

Proliferation of nuclear weapons has made accidental war more likely

David J. Karl, "Proliferation Pessimism and Emerging Nuclear Powers," *International Security*, Vol. 21, No. 3. (Winter, 1996-1997), pp. 87-119.

Second, with its focus on the ways in which unintended nuclear conflict might come about, the new wave of pessimism offers a more nuanced understanding of the problems of proliferation, especially since it parts with the traditional pessimistic concern that nuclear conflict could be brought about intentionally by irresponsible leaders. Both pessimistic versions, of course, attach catastrophic results to the spread of nuclear weapons. But instead of viewing new nuclear powers as initiating nuclear use in a deliberate, premeditated fashion, the new wave of literature sees them as probable victims of misperceptions, technical mishaps, and inadvertent actions they may neither fully anticipate nor be able to cope with. As Scott Sagan writes: "Nuclear weapons may well have made deliberate war less likely, but the complex and tightly coupled nuclear arsenal we have constructed has simultaneously made accidental war more likely."²⁴

Structural Characteristics suggest that serious system accidents with new nuclear powers are inevitable

Scott Sagan - "The Perils of Proliferation: Organization Theory, Deterrence theory, and the Spread of Nuclear Weapons," - *International Security*, Vol. 18, No. 4. (spring, 1994) - JSTOR

<Charles Perrow's *Normal Accidents* argues there are inherent limits to the degree to which any large organization can understand the technical systems it creates to manage hazardous technologies, such as nuclear power plants, chemical industries, advanced biotechnology, and oil tankers.⁹³ If organizations were omniscient, they could anticipate all potential failure modes in their systems and fix them ahead of time. Perrow argues, however, that boundedly rational organizations in the real world will inevitably have serious system accidents over time whenever they exhibit two structural characteristics: high *interactive complexity* (systems containing numerous interrelated, yet unplanned, interactions which are not readily comprehensible) and *tight coupling* (systems with highly time-dependent and invariant production sequences, with limited built-in slack).

My own book, *The Limits of Safety*, adds a more political dimension to "normal accidents theory," which combines with Perrow's structural arguments to produce even greater pessimism about the likelihood of organizational accidents. Conflicting objectives inevitably exist inside any large organization that manages hazardous technology: top-level authorities may place a high priority on safety, but others may place a higher value on more parochial objectives, such as increasing production levels, enhancing the size of their subunit, or promoting their individual careers, which can lead to risky behaviors. Such a focus on the political manner in which conflicting goals are chosen and pursued is necessary to explain both why systems with such dangerous structural characteristics are constructed and why organizational learning about safety problems is often severely limited.>

Proliferation undermines nuclear safety as poorer states have crude C&C systems and the international security regimes pushes most new programs underground without monitoring or safety compliance standard

Scott Sagan - "The Perils of Proliferation: Organization Theory, Deterrence theory, and the Spread of Nuclear Weapons," - *International Security*, Vol. 18, No. 4. (spring, 1994), JSTOR

First, some emergent nuclear powers lack the organizational and financial resources to produce even minimal mechanical safety devices and safe weapons design features. Although all countries may start with "crude nuclear arsenals," in Waltz's terms, the weapons of poorer states will likely be more crude, and will remain so for a longer period of time. Evidence for this prediction can be found in the case of the Iraqi nuclear weapons program, as UN inspectors discovered soon after the 1991 Persian Gulf War:

The inspectors found out one other thing about the Iraqi bomb [design]-it is highly unstable. The design calls for cramming so much weapon-grade uranium into the core, they say, that the bomb would inevitably be on the verge of going off-even while sitting on the workbench. "It could go off if a rifle bullet hit it," one inspector says, adding: "I wouldn't want to be around if it fell off the edge of this desk."⁹⁹

Second, the "opaque" nature of nuclear proliferation in the contemporary world exacerbates nuclear weapons safety problems. Fearing the international diplomatic consequences of a public crossing of the nuclear threshold, most new proliferants have developed weapons capabilities in a covert manner.¹ Israel, South Africa, Pakistan, and possibly North Korea fit this pattern. There are, however, both organizational and technical reasons to believe that this opaque path to nuclear weapons status is inherently less safe: the tighter compartmentalization of such programs means that there is likely to be less thorough monitoring of safety efforts; the lack of public debate about nuclear issues in such states increases the likelihood that military organizational interests will not be challenged; and the inability to have full-scale nuclear weapons tests will inhibit safety design efforts.¹⁰⁰

Third, accident-prone nuclear operations will be more prevalent in states with volatile civil-military relations because military officers, who have organizational biases in favor of maintaining high readiness for war, will be less constrained by safety-conscious civilian authorities.¹⁰¹ Pakistan is the most worrisome case in point. The Pakistani Air Force plans to use U.S. F-16 aircraft in nuclear weapons delivery roles if necessary, and yet in 1992 former Director of Central Intelligence Robert Gates suggested that Pakistan had not perfected the electrical mechanisms necessary for safe maintenance, transportation, and delivery of weapons by F-16's. The existence of such safety problems makes the reports that the Pakistani Air Force, without informing Prime Minister Bhutto, loaded nuclear weapons on its F-16 aircraft during the 1990 Kashmir crisis even more alarming than previously recognized.

Resource constraints by developing countries suggest that new nuclear states develop with very unstable and unsafe nuclear programs

David Karl - director of studies at the Pacific Council on International Policy - "Proliferation Pessimism and Emerging Nuclear Powers" – International Security – Vol. 21, No. 3 - 1996

Disputing this assessment, pessimists believe that the important resource constraints faced by developing countries may prevent the emergence of stable deterrence between nuclear powers. The technological and financial weaknesses of proliferating states would result in small and rudimentary force postures that are vulnerable to first-strike attack and operate under ramshackle safety measures and command and control structures, generating greater pressures on crisis stability and increased opportunities for accidents and unauthorized seizure. Moreover, even if a state's resources base is ample, organizational biases may impede development of a secure second-strike arsenal. To the optimist's belief that states will successfully endeavor to protect their arsenals from attack because they have self-evident incentives to do so, pessimists counter that however much states prize their valuable military assets, they do not always take sufficient care in guarding them. "Imperfect organizations," Sagan submits, "provide an imperfect link between desires of political leaders and the outcome of force postures. These organizations make predictable (but not always preventable) mistakes." As pessimists see it, military services, owing to their strong offensive traditions, lack sufficient professional incentives to make nuclear forces invulnerable, and will perceive pre-launch survivability measures to be unnecessary for deterrence or too costly to implement. According to Sagan, "the transition to a secure retaliatory force [will] be especially prolonged in time and imperfect in implementation in states in which civilian control over military organizations is problematic."

Nuclear Blackmail:

Terrorists are getting nukes to expand their reign of fear – causing nuclear attack and blackmail

Biegun and Wolfsthal - "Bridging the Foreign Policy Divide: A Full-Court Press Against Nuclear Anarchy" - Steve E. Biegun and Jon B. Wolfsthal April 2007 page 3

<In contrast, terrorist groups seek to acquire nuclear weapons for one reason: to use them(probably as quickly as possible). Those seeking such capabilities have likely done so with a particular target in mind. The acquisition and use of a nuclear device by a terrorist group would inflict massive damage and instill pervasive popular anxiety in the targeted country. This makes them the ultimate terror weapon. In the wake of a terrorist attack, there would be no way of knowing if the perpetrators had additional weapons in reserve. An attacker might therefore seek to blackmail countries with the threat of further nuclear attacks. With little hope of deterring future attacks, it is impossible to predict how a country's population or leadership would respond to such an ultimatum.>

Nuclear weapons are not just useful for attack but also can be used as nuclear blackmail

David Rosenbaum - "Nuclear Terror" - International Security - Vol 1, No. 3. - Winter 1977 - pp. 140-161.

<A nuclear weapon can not only kill many people, but it is extremely useful for blackmail as the scenario at the beginning of this article illustrates. Thus its use is likely to be attractive to hostile foreign nations, terrorist groups, criminals, or combinations of them. The weapon might be obtained either through the theft of an already constructed weapon or through the theft of SNM and the manufacture of a weapon from it. A terrorist group which successfully steals a nuclear weapon or more than one "weapons quantity" of SNM may be able to extort sizable gains just by proving that it took the material and claiming that it is able to set off a nuclear explosion. It is difficult to see what assurance could be offered to the public that the claim was false. A great deal of thought has gone into designing United States nuclear weapons to make it extremely difficult for an unauthorized person to cause them to explode as nuclear weapons. They are designed on a fail-safe basis so that no one individual, even one who has been trained to "arm" them, will be able to cause a nuclear explosion. The other nations who already have nuclear weapons and those who will come to have them in the future may not have given the same amount of attention to this problem.>

North Korea:

The threat of nuclear transfer is very real, specifically from North Korea

Sheena Chestnut, Illicit Activity and Proliferation North Korean Smuggling Networks
International Security 32.1 (2007) 80-111

Graham Allison asked, "Could [North Korea] contemplate selling a bomb to another state or to a terrorist like [Osama] bin Laden?"⁴ When asked to summarize the threat posed by North Korea, Secretary of Defense Donald Rumsfeld mentioned the possibility of nuclear transfer first.⁵ These statements illustrate widespread agreement that North **[End Page 80]** Korea's nuclear program constitutes a major international security threat, largely because of the risk of nuclear transfer. Although the agreement reached on February 13, 2007, is a step toward the denuclearization of North Korea, the risk of nuclear export will remain as long as the DPRK possesses a stockpile of fissile material.⁶

North Korea has smuggled conventional weapons in the past; they show the intention to do the same with nuclear material

Sheena Chestnut, Illicit Activity and Proliferation North Korean Smuggling Networks
International Security 32.1 (2007) 80-111

The DPRK has developed extensive nonnuclear covert smuggling capabilities; some North Korean-linked networks have included terrorist groups such as the Japanese Red Army and the Official Irish Republican Army (OIRA); and some, such as the Asian criminal gangs arrested in the summer of 2005 in New Jersey and California, have smuggled counterfeit currency and other items through such U.S. ports. The DPRK regime justifies illicit activity on ideological terms, but it is motivated primarily by extreme financial necessity, indicating that the DPRK has strong economic incentives to sell nuclear materials or components. An examination of patterns in illicit activity, however, reveals that although North Korean criminal smuggling has been centrally inspired and sanctioned, it is not always centrally controlled; the state has shifted over time from using solely state agents and assets to contracting out transportation and distribution of smuggled goods to criminal partners over whom it has less control. In short, the DPRK possesses both the means and potential motivation to engage in nuclear smuggling, but it also risks losing control of its own proliferation activities.

A Weakened domestic government or economic crisis could push North Korea towards a nuclear sale

Sheena Chestnut, Illicit Activity and Proliferation North Korean Smuggling Networks
International Security 32.1 (2007) 80-111

Second, of three major threats to regime stability—external military threat, **[End Page 93]** economic crisis, and weakened domestic political support—only changes in the latter two will likely push the North Korean leadership toward a nuclear sale. Under heightened military threat (anticipation of imminent action or commencement of operations), the deterrent or battlefield utility of nuclear weapons would exceed the value of anything obtained by a sale. With regard to the second and third threats, however, the regime relies on illicitly derived income to sustain its power base and possibly to obtain weapons technology.⁶² The economic benefits contained in the February 13 denuclearization agreement, therefore, will likely lower the regime's incentives to sell nuclear material, particularly if the return of funds from Banco Delta Asia is accompanied by a lightening of pressure on North Korean finances worldwide.⁶³ If, however, pressure on North Korea continues and the regime does not regain its access to international banking, Pyongyang will be more tempted to offset its losses. Moreover, even the provision of economic aid from the United States under the new agreement and continued assistance from South Korea and China may not reduce the incentives for nuclear entrepreneurship as much as analysts have suggested, given that aid and trade benefit the population as a whole, whereas income from illicit activity primarily supports the elite.

North Korea has smuggled weapons to Iran and it has disseminated nuclear technology with it

Sheena Chestnut, Illicit Activity and Proliferation North Korean Smuggling Networks
International Security 32.1 (2007) 80-111

Nevertheless, North Korea appears to be applying tools developed in criminal activities—for example, the use of middlemen, multiple names, front companies, and complicated financial arrangements—to proliferation. Two of these companies, Korea Mining Development Trading Corporation and Korea Ryongbong General Corporation, have (under alternate names) exported ballistic missile technology to countries such as Iran and Pakistan; and a Pakistan-based DPRK diplomat working for Changgwang Credit Bank (another name for Tanchon Commercial Bank) arranged for a Moscow institute to provide Pakistan and North Korea with maraging steel potentially usable in uranium-enrichment gas centrifuges.⁷⁷ The DPRK also appears to have learned from criminal activity how to adapt its smuggling practices quickly in response to scrutiny; after unconfirmed reports surfaced that a North Korean freighter had delivered SS-N-6 intermediate-range ballistic missiles to Iran, a U.S. official noted that the DPRK had responded to interdiction of its maritime traffic by shifting to air transportation.⁷⁸ Moreover, reports that Iranian scientists observed the DPRK's missile and nuclear tests,⁷⁹ and that North Korea may be helping Iran to construct its own nuclear test site, suggest that North Korea may have learned that transmission of "tacit knowledge" is one of the more valuable services it can provide in the missile and nuclear industries.⁸⁰ If launch observations are a form of technical consulting, they have precedent both in DPRK reliance on Burmese help to establish drug factories and in A.Q. Khan's one-stop proliferation shop. These examples suggest that the DPRK has transferred its ability to compartmentalize, camouflage operations, and adapt rapidly to enforcement from illicit activity to proliferation. This is unsurprising **[End Page 98]** in the DPRK case, where the overlap between domestic actors conducting illicit activity and those pursuing missile and nuclear proliferation means that military and security organizations have already created and tested the infrastructure and practices of covert smuggling.

Russian “Nuclear Cities”:

During the cold war, the Soviet Union produced their nuclear arms in autonomous secret “nuclear cities”

Sharon S. Weiner, Preventing Nuclear Entrepreneurship in Russia's Nuclear Cities
International Security 27.2 (2002) 126-158

Russia's nuclear cities contain the Soviet Union's principal nuclear weapons research, design, and production facilities. [9](#) Located in remote areas around the country, they began life as "company towns" with a nuclear mission. As in the past, decisions affecting the cities are made at the federal level, and the cities are funded directly by the Ministry of Atomic Energy (MinAtom). [10](#) If there were any private businesses, they existed only for the support of the local population. Each nuclear city continues to have a specific function (see [Table 1](#)). Because of the sensitive nature of their work, the cities were "closed" during the Soviet era. Each city—including housing, schools, parks, and other facilities—was surrounded by double fences and guarded by troops from the ministry of internal affairs. [11](#) The nuclear facilities themselves were cordoned off with additional fences and guards. Access to and from the cities was tightly controlled by representatives of the KGB, the Soviet Union's intelligence [End Page 128] agency. Until the mid-1950s, residents were not allowed to leave except for official business. [12](#) Given the potential hardships of living under these conditions, residents were compensated by the Soviet government. Workers at the nuclear installations were generally paid higher wages and, more important, they and their families had greater access to quality health care, food, and consumer goods than most other Soviet citizens. [13](#) Until 1992 the existence of these cities was officially a secret. None appeared on Soviet maps, and they were known only by postal codes associated with large cities in the region.

Since the fall of the Soviet Union, these “nuclear cities” have had to make due with reductions in nuclear weapons production; up until this point, the cities’ economies have made due with decreased nuclear demand

Sharon S. Weiner, Preventing Nuclear Entrepreneurship in Russia's Nuclear Cities
International Security 27.2 (2002) 126-158

The last ten years have been economically devastating for most Russians, yet workers in Russia's nuclear cities have an advantage that other Russians do [End Page 134] not: the skills and equipment to build nuclear weapons. Although there have been confirmed cases of the theft of fissile materials from Russia's nuclear weapons complex, the sale of nuclear expertise, often referred to as "brain drain," is still largely unproven. A handful of Russian nuclear scientists emigrate each year, mostly to Germany, Israel, Sweden, and the United States. [39](#) So far the evidence is mostly anecdotal that Russian nuclear weapons experts are contributing to bomb programs in countries labeled by the United States as "proliferation concerns." [40](#) Nor is there proof that al-Qaeda or other terrorist organizations have acquired

nuclear weapons and expertise from Russia. [41](#)

BRINK: during the next five years, the economies of Russian nuclear cities will collapse, leading to massive unemployment and increased access to production facilities

Sharon S. Weiner, Preventing Nuclear Entrepreneurship in Russia's Nuclear Cities
International Security 27.2 (2002) 126-158

In the last decade, Russia reduced the size of its nuclear weapons design and production workforce from 150,000 to 60,000-67,000. [42](#) MinAtom's current plan calls for additional cuts of 35,000 workers from the nuclear cities between 2005 and 2012. [43](#) Although these reductions are proportionally similar, their impacts are likely to be quite different. The first round of cuts involved mostly younger workers who left voluntarily to seek employment in the private sector and the transfer of some functions and associated personnel away from the nuclear weapons complexes in some cities: For example, enrichment and reprocessing services were commercialized, and social, cultural, and other civil functions were shifted to the local government. [44](#) [End Page 135] Demographic and other changes in the nuclear cities since 1990 suggest that the next round of reductions will be harder to accommodate, for at least three reasons. First, the majority of nuclear weapons workers who want jobs in the private sector have already left. [45](#) Second, the nuclear workforce is aging. In 1999 about 20 percent of the scientists, technicians, and engineers in the nuclear cities were older than fifty. Assuming current hiring, retirement, and demographic trends, this figure will rise to 30 percent by 2009. [46](#) The aging of Russia's soon-to-be-unemployed nuclear workers has significant implications for their future job prospects. Because older employees will work fewer years regardless of the jobs they take, the companies that hire and retrain them will see lower returns on their investment than if they hired younger employees in the first place. In addition, older workers in Russia are seen as having a greater sense of entitlement and less interest in changing jobs. [47](#) Generally, this is attributed to longer tenure in the Soviet system. Besides enjoying prestige based on their positions, older workers came of age in a system where paternalistic bonds between workers and their employers were common. [48](#) In addition to wages, employees were provided with housing, health care, day care, and a variety of other perks. They also lived, played, and raised their children in a community of coworkers. Older workers are thus much more reluctant about severing their connections to their old employers. Third, changes in the legal status of Russia's nuclear cities have also had profound effects on the quality of life of their residents, on prospects for business development, and on opportunities for proliferation. In 1992 the Duma passed a law giving Russia's ten nuclear cities and approximately thirty other closed cities with defense-related functions status as ZATOs—that is, federally controlled "closed territorial-administrative formations." ZATOs require "a special regime of safe functions and protection of state secrets, including special residence conditions." [49](#) The nuclear cities are still "closed," with movements in or out now controlled by the FSB, the KGB's successor. Unlike in the Soviet era, however, the number of foreign and Russian visitors to these cities has increased [End Page 136] significantly. Indeed every closed city has been visited by foreigners, though many of their nuclear facilities remain off-limits. [50](#) Continued restrictions on access to the nuclear cities has been a deterrent to economic development. Both private companies and U.S. government programs seeking to encourage business development cite access restrictions as

a major impediment to investment. [51](#) Besides having to obtain a visa for Russian entry, foreigners wanting to visit the nuclear cities must have an official letter of invitation from MinAtom or a Russian organization and must apply for permission to enter at least forty-five days in advance. [52](#) In selected cases, foreigners are given multiple-entry permits that require only two weeks' advance notice before a visit. Foreign visitors are usually escorted at all times. Permission is also required to visit the nuclear weapons facilities themselves. In practical terms, this means that potential investors can meet the scientists they may want to employ, but they cannot inspect the premises where those scientists work. In deals involving private companies, access can be negotiated but with great difficulty. [53](#) Russian access to the nuclear cities has also been liberalized, but this too has posed problems for job creation. The relocation of individual Russians to the nuclear cities is still contingent on employment by the nuclear facilities; however, relatives of current residents are now allowed to join them. [54](#) During the 1990s, when Russia's urban population was in decline, the population of the **[End Page 137]** nuclear cities increased by an estimated 60,000 people, or slightly more than 8.5 percent. [55](#) The popularity of the nuclear cities and of the ZATOs in general has been attributed to the perception that they experience fewer crime and drug problems and better quality housing, schools, and public services. [56](#) According to Russian officials, in 1995, 95 percent of those living in the nuclear cities voted against opening them. [57](#) These demographic changes mean that as jobs become fewer because of downsizing by MinAtom, unemployment will worsen as the working-age population increases. Throughout the 1990s the percentage of unemployment in the nuclear cities was approximately the same as it was in Russia as a whole. [58](#) However, while the demand for labor is growing in Russia, it is shrinking in the nuclear cities. As a result, from 2000 to 2009 the working-age population in the nuclear cities will increase by an estimated 50 percent, causing unemployment to skyrocket. [59](#)

It appears that even U.S. aid and job creation to these nuclear cities has not removed the threat of “brain drain”

Deborah Yarsike Ball and Theodore P. Gerber. Russian Scientists and Rogue States Does Western Assistance Reduce the Proliferation Threat? *International Security* 29.4 (2005) 50-77

Russia inherited the largest WMD complex in the world, with little government support for sustaining it at anywhere near Cold War levels. As a result, Russian science fell into a protracted crisis: salaries plummeted, funding for research dropped sharply, and the number of students pursuing careers in science dwindled. These developments gave Russian scientists both greater incentives and greater opportunities to sell their knowledge to governments or terrorist organizations that harbor hostile intentions toward the United States and other Western democracies. In response, the United States and other Western governments created a [End Page 50] host of nonproliferation assistance programs designed to reduce the likelihood that Russian scientists would sell their WMD knowledge to rogue states or terrorists. Yet to date, there have been no studies that present empirical data assessing the impact of these programs on the threat of Russian WMD brain drain.² Our data from an unprecedented survey of 602 Russian scientists indicate that the brain drain threat from Russia should still be at the forefront of policymakers' and the public's attention: roughly 20 percent of Russian physicists, chemists, and biologists say they would consider working in Iran, Iraq,³ North Korea, or Syria—nations that, for the sake of brevity, we refer to as "rogue."⁴ To be sure, the vast majority of Russian scientists feel a great weight of responsibility for how their WMD knowledge is used and would not help rogue states or terrorists acquire weapons of mass destruction. Yet given the enormous security implications, the possibility that one-fifth of the scientists would consider working in rogue countries is cause for concern.

Details about the nature of this survey

Deborah Yarsike Ball and Theodore P. Gerber. Russian Scientists and Rogue States Does Western Assistance Reduce the Proliferation Threat? *International Security* 29.4 (2005) 50-77

For our sample, we chose twenty physical, chemical, and biological research institutes that had received some funding from the ISTC and were accessible to ROMIR in terms of cost and entree, plus ten backup institutes. Both weapons-related and civilian research was conducted at our sample institutes in Soviet times. But we were denied access to the weapons research institutes within the Ministry of Atomic Energy complex.³² No institutes that have been (and, in many cases, still are) more-or-less exclusively committed to defense research are represented in our study. This may limit the generalizability of our findings. Nonetheless, this round of our survey gives unparalleled empirical insight into the attitudes and beliefs of a wide array of currently practicing Russian scientists. Our data can provide a benchmark for future studies of the same population and for comparisons with data on institutes that primarily conduct defense-related work. Fieldwork began on November 2, 2002, and ended on January 23, 2003. ROMIR used only experienced interviewers for this project. The fieldwork **[End Page 59]** went smoothly, with one exception: the survey was cut short when the leadership in one institute became suspicious and ordered the interviewers to leave. ROMIR reallocated the institute's remaining sample volume to other institutes of similar profile.³³ A total of 602 interviews were completed. Two hundred thirty scientists who could not be contacted were replaced in the sample. Among sampled scientists actually contacted, 7 percent refused to participate. Among those who refused, 70 percent said they were too busy, 15 percent stated that they feared violating the institute's nondisclosure policies, 12 percent declared they had no interest in the study, and 3 percent gave some other reason. After the completion of fieldwork, ROMIR office staff called back a randomly chosen 15 percent of the respondents to verify that the interviews had taken place. All interviews were verified.

There is a sizable threat that certain Russian scientists can turn nuclear information over to terrorists or rogue nations

Deborah Yarsike Ball and Theodore P. Gerber. Russian Scientists and Rogue States Does Western Assistance Reduce the Proliferation Threat? *International Security* 29.4 (2005) 50-77

The number of Russian scientists who represent a WMD proliferation threat is relatively small, but large enough for continuing concern on the part of policymakers. The majority of active Russian scientists are highly responsible when it comes to sharing their WMD knowledge. They are unlikely to move to a rogue nation—Iran, Iraq, North Korea, or Syria—and they disapprove of selling their WMD expertise to authoritarian regimes. Yet WMD brain drain from Russia continues to jeopardize international security because a sizable minority of scientists pose a threat. Until now, we had no data for assessing whether foreign grant programs aimed at reducing the WMD brain drain threat had any impact. Our data provide solid empirical evidence that these programs do indeed reduce the potential for WMD brain drain. Our study yields five major findings. First, the majority of active Russian scientists are unlikely to migrate to rogue countries or sell their WMD expertise to hostile governments. Second, sizable minorities do, however, pose a threat: 21 percent would consider taking a job that would require moving to one (or more) of four rogue states; 13 percent deem WMD work for an authoritarian government acceptable under some circumstances; and 59 percent view dual-use work for a foreign firm as acceptable under certain **[End Page 75]** circumstances. Third, foreign grants significantly reduce the likelihood that Russian scientists will be tempted to move to a rogue nation and work in their area of technical expertise. Fourth, foreign grants reduce the probability, at least in some cases, that Russian scientists approve of conducting WMD work for an authoritarian government under some circumstances. They do not affect views on dual-use research for a foreign company. Fifth, Russian grants have no effect either on the likelihood that scientists will go rogue or on any other measure of proliferation threat.

Counter-Proliferation secures U.S. interests:

Even if you don't believe the international system currently restrains the decisions of the United States, U.S. adherence to a regulation of force would be in its best interests

John Yoo - Professor of Law, University of California at Berkeley – “Using Force” –
University of Chicago Law Review – Summer 2004 – L/N

<Even if one continued to believe that international law had little, if any, impact on the outcome of the decisions of the great powers, it still would make sense to develop a new doctrine concerning the use of force. In the wake of the wars in Kosovo, Afghanistan, and Iraq, other nations may fear that the United States has embarked on a campaign to increase its hegemonic power in the world. It seems clear that recent American uses of force do not fall cleanly within the conventional rules governing the use of force, dependent as they are on the approval of the UN Security Council. If the United States has no viable intellectual framework with which to modify or replace the old rules, nations may fear that it only intends to expend force purely for its own gain. Developing a new approach to the use of force may help alleviate concerns about the unrestricted exercise of power. An approach such as the one developed in this Article could signal that the use of force still would be limited to self-defense, modified to take into account developments in weapons and the rise of terrorism and rogue nations, or to stabilize the existing international order. Adherence over time to this framework would show that the United States remains committed to the basic international system, founded on nation-state sovereignty, and that it seeks to change the legal rules to address threats to that order -- but no more.>

Military Force is key:

Bluffing without use of force is useless

Tung Yin, Disposable Deontology: The Death Penalty and Nuclear **Deterrence**, Alabama Law Review, Fall 2003, lexis.

Other scholars who have devoted considerable attention to studying nuclear deterrence have also rejected the "bluff" theory. Although acknowledging that there is no way to confirm or refute the "bluff" theory, John Finnis argues that it is "highly implausible,"¹⁶⁷ as it would require far too many people over different administrations to conspire indefinitely to keep the secret.¹⁶⁸ Given human nature, he finds it incredible that the strategy would have succeeded.¹⁶⁹ Moreover, if the bluff were confined to some inner circle of highly placed government officials, then the persons lower in the chain of command would themselves have to have the conditional intent to launch the nuclear weapons if ordered.¹⁷⁰ Finnis argues that "those who deliberately bring others to will what is evil make themselves guilty, not only of the evil the others will, but also of leading them to become persons of evil will."¹⁷¹ A final problem with the "bluff" theory is that it assumes an absolute, unified chain of command, such that the decision of whether to retaliate always rests entirely with one leader or the inner circle.¹⁷² This is not an accurate description of reality. In the United States, for example, the SIOP allows military commanders to launch nuclear weapons on their own initiative if they conclude that the chain of command has been decapitated by a crippling strike; thus, "destruction or silencing of the [National Command Authority] blows away the safety-catch" and could override the hypothesized bluff.¹⁷³ Without such a similar provision--allowing military commanders to launch without the authorization of a political leader in certain circumstances--the French or British bluff would not be credible. Thus, even if the French or British leaders were bluffing, the very fact of establishing a credible threat requires the establishing of a process where the decision of whether to launch/retaliate could be taken away from the leaders [*138] and reposed in the hands of military commanders who presumably are not let in on the bluff.¹⁷⁴

Military force for counter-proliferation efforts is a strategic imperative

Christopher Clarke Posteraro - Georgetown University, School of Foreign Service - INTERVENTION IN IRAQ: TOWARDS A DOCTRINE OF ANTICIPATORY COUNTER-TERRORISM, COUNTER-PROLIFERATION INTERVENTION – Florida Journal of International Law – Fall 2002 – L/N

<Military action to remove the threat of chemical, biological and nuclear proliferation in Iraq is not so much a strategic option as it is a strategic imperative. The risk of inaction in the face of such a threat is intolerable. Justice need not operate through statutes, charters or custom. The NATO intervention in Kosovo proved this to much of the world. ²⁹⁹ The United States must describe its motives with honesty and promote the establishment of new rules better suited for the new threats of the Twenty-First Century. State practice is, in the long term, the ultimate arbiter of what international law is. It is a consequence of this fact that more powerful states will exert the greatest influence on the development of international law, and the United States should not hesitate to take the lead in practicing the legitimate doctrine of anticipatory counter-terrorism, counter-proliferation intervention. ³⁰⁰>

Threat of military force is what makes diplomacy effective, therefore the best way to keep the peace is prepare for war

Robert Art – “To What Ends Military Power?” - International Security, Vol. 4, No. 4. - Spring, 1980 – p.35 - JSTOR

<The efficacy of force endures. It must. For in anarchy, force and politics are connected. By itself, military power guarantees neither survival nor prosperity. But it is almost always the essential ingredient for both. Because resort to force is the ultimate card of all states, the seriousness of a state's intentions is conveyed fundamentally by its having a credible military posture. Without it, a state's diplomacy generally lacks effectiveness. Force need not be physically used to be politically useful. Threats need not be overtly made to be communicated. The mere presence of a credible military option is often sufficient to make the point. It is the capability to resort to military force if all else fails that serves as the most effective brake against having to do so. Lurking behind the scenes, unstated but explicit, lies the military muscle that gives meaning to the posturings of the diplomats. Diplomacy is the striking of compromises by parties with differing perspectives and clashing interests. The ultimate ability of each to resort to force disciplines the diplomats. Precisely because each knows that all can come to blows if they do not strike compromises do the diplomats engage in the hard work necessary to construct them. There is truth to the old adage: "The best way to keep the peace is first to prepare for war."

AT: Sanctions ALT:

Sanctions are ineffective at levying pressure against aspiring nuclear powers but they in practice

Harold Brown, "New Nuclear Realities" *The Washington Quarterly* 31.1 (2007) 7-22

The second general approach to denying nuclear weapons to new aspirants is to employ sanctions to punish nations that embark on nuclear weapons programs to make them stop. Sanctions can range from resolutions of disapproval to trade and financial penalties to blockades to attacks on nuclear facilities or even, although it is now somewhat discredited, regime overthrow. Their flaw, as is also the case with some of the technical and logistic methods described above, is that nonmilitary sanctions work poorly unless practically all potential supplier nations subscribe to the denial, whether of investment, financial flows, trade, or nuclear-related material. **[End Page 15]** The history of the effectiveness of such sanctions is mixed at best. They played a major role in the change of regime in South Africa and perhaps a significant one in Libya's renunciation of its nuclear program. There have been many failures, however, in attempts to use sanctions to pressure states to change policies less central to them than a determination to acquire nuclear weapons.

Negative Evidence

Humanitarian/Human rights Law:

The Use of Force is assessed by human rights law and international humanitarian law in the status quo

Kenneth Watkin – Controlling the Use of Force: A Role for Human Rights Norms In Contemporary Armed Conflict – American Journal of International Law – January 2004 – L/N

< [*1] The twenty-first century has witnessed significant challenges to the traditional view that international humanitarian law exclusively regulates the use of force in armed conflict. The death and destruction caused on September 11, 2001, reflect the increasingly complex nature of modern conflict. Groups that rely on the benefits of globalization and technological advances to conduct operations across international borders are threatening the maintenance of international order. Their tools of violence range from conventional weapons of war to more modern weapons of mass destruction ¹ and potentially asymmetric "cyber attacks." ²

At the same time, the proliferation of internal armed conflicts points to similarly complex security challenges within nation-states. These conflicts have not always attracted the same amount of publicity as transnational terrorism, which does not, however, make their threat to international and human security any less real. In these situations, death and human suffering largely emanate from readily available, but relatively "low-tech" means, such as antipersonnel mines, the ubiquitous AK-47 rifle, ³ and even machetes and transistor radios. ⁴

Increasingly, the use of force during armed conflict is being assessed through the perspective of human rights law, as well as under international humanitarian law. >

While the absolute nature of the right to life is not recognized in so far as states are guaranteed the duty to protect their citizens, states' actions are still subject to societal standards of law and morality by which human rights law and international humanitarian law operate.

Kenneth Watkin – Controlling the Use of Force: A Role for Human Rights Norms In Contemporary Armed Conflict – American Journal of International Law – January 2004 – L/N

<For some, the discussion of any killing is problematic. The "right to life" is a deeply held principle that is protected in times of both peace and war. A common starting point of both human rights and humanitarian law is respect for human values and the dignity of the human person. The two normative regimes "share a common 'core' of fundamental standards which are applicable at all times, in all circumstances and to all parties, and from which no derogation is permitted."⁵⁷ It has been noted that "when life is deprived, it is impossible to enjoy any fundamental freedom."⁵⁸

This fundamental status makes it tempting to consider the right to life in unqualified terms. However, the absolute nature of the right is challenged by the need to maintain order in society, both domestically and internationally, which may occasionally lead to the use of deadly force. The interpretation of the right to life as absolute is often linked to pacifism,⁵⁹ but, as the early Christian church discovered, pacifism can conflict with the obligations of governance. As a result, "just war theory," which authorized warfare as a Christian activity, was developed as that religion became "linked with the secular power of the Empire."⁶⁰ Since the state has the right and the duty to guarantee the security of its citizens, it may be required to use deadly force, although its power is not unlimited and its actions are "subject to law and morality."⁶¹

Members of the armed forces and civilians enjoy the same fundamental right to life, but that right is limited by the different societal demands according to which human rights and international humanitarian law operate.>

No other moral or legal norm shares the consensus than that of human rights and respect for human rights constitutes a minimal requirement of international justice

Brian Orend - Terminating Wars and Establishing Global Governance – The Canadian Journal of Law & Jurisprudence – July 1999 – L/N

<In legal terms, nearly all states have signed the UN Charter, which mandates commitment to its core principles, notably international peace and security, and human rights as enshrined in the Declaration. Furthermore, the vast bulk of the world's states have signed and ratified the two main international human rights covenants, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). We can follow the community of international law scholars in pronouncing that the world's states have, in fact, committed themselves legally to upholding the core principles of human rights fulfillment. No other moral and legal norm has enjoyed the kind of global consensus currently supporting human rights. It is reasonable to infer that, from a legal point of view, respect for human rights constitutes a minimal requirement of international justice. ¹⁵>

Human rights theory, at the heart of justice, sees violations of human rights as deprivations of vital needs for existence, and serves as a shared moral norm

Brian Orend - Terminating Wars and Establishing Global Governance – The Canadian Journal of Law & Jurisprudence – July 1999 – L/N

<Human rights are here understood as high-priority entitlements, or justified claims, that we all have to those objects which we vitally need as the kind of creatures we are. Such objects, in abstract terms, might include personal security, material subsistence, liberty, equality and recognition. ¹³ A more specified list of such objects can be found in the UN's influential Universal Declaration of Human Rights (UDHR), which was promulgated in 1948. There are two reasons why such rights claims form the bedrock of concern for international justice in our era: one moral and one legal.

In moral terms, human rights ought to be seen as forming the baseline condition of political reasonableness in our era, insofar as they are claims to what we all vitally need as human beings. This is to say that, in the absence of the objects of our human rights claims, we suffer serious harm as the kinds of creatures we are. We cannot see ourselves living lives of minimal value when we lack the objects of our human rights: indeed, we cannot see ourselves surviving for long at all in the absence of access to such objects as security, subsistence and liberty. Thus, to violate human rights is to deprive people of what they vitally need as human beings [*261] and thus to do them grievous harm. And it is one of our clearest and most broadly shared moral norms not to do serious harm to other human beings. ¹⁴>

Bush Doctrine Bad:

No Legal Justification for the Bush Doctrine:

Though the threat of nuclear weapons by rogue states and terrorist organizations is a dangerous one, the aggressive Bush Doctrine finds no legal outlet or justification for the use of pre-emptive force.

Jackson Nyamuya Maogoto - Senior Lecturer, School of Law, University of Newcastle –
“Walking an International Law Tightrope: Use of Military Force to Counter Terrorism--
Willing the Ends” – Brooklyn Journal of International Law – 2006 – L/N

<Not surprisingly, military action against Iraq has split the international community and inflamed the world's major powers, as it raises both policy and legal matters. Considering that the use of armed force can only be justified under the international law regime when used in self-defence, can the United States go beyond the rhetoric and actually carry the war on terror to those rogue nations who are identified as supporters and sponsors of terrorist activities, but have not physically engaged in an act of aggression against the United States? ²³⁶ The convergence of international terrorism and weapons of mass destruction presents a grave threat to international peace, security, and prosperity by threatening the survival of entire nations. This threat multiplies exponentially when governments foster and encourage these dual scourges. However, the aggressive "Bush Doctrine" is disturbing because an old problem in contemporary international law (anticipatory self-defence) is being touted as a newly appropriate vehicle in the war against international terrorism, despite the prevailing view in the international community that the "armed attack" requirement in Article 51 of the UN Charter superseded any pre-existing right of anticipatory action.

The old truism that "international law is not a suicide pact," may be forceful in "an age of uniquely destructive weaponry," ²³⁷ however, "strategically, there is little precedent for a major U.S. military offensive against a state that has not proximately used force against [the United States]." ²³⁸ While a number of legitimate justifications might permit the use of force, the international legal system does not currently provide a legal outlet for such force. ²³⁹ "An international law doctrine, under which the [United States] could execute the military campaign it successfully launched against Iraq, does not currently exist. That lacuna was seemingly plugged with the 'Bush Doctrine,' that advocates pre-emptive strikes against rogue states and/or entities involved in terrorism." ²⁴⁰ The [*449] Doctrine's reliance on the premise of pre-emptive self-defence resurrects the idea of a "right of self-preservation" that fell into disuse in the early part of the twentieth century with the prohibition of war and the legal demarcation of the limits of the right to self-defence outlined in the UN Charter. ²⁴¹>

The National Security Strategy is Abused:

The National Security Strategy has no threshold for sufficiency in the threat used to justify military force

John Yoo - Professor of Law, University of California at Berkeley – “Using Force” –
University of Chicago Law Review – Summer 2004 – L/N

<“The administration virtually admits that this approach is at odds with conventional international legal notions of self-defense. It takes some comfort in the concept of anticipatory self-defense, but also acknowledges that the doctrine "conditioned the legitimacy of preemption on the existence of an imminent threat -- most often visible mobilization of armies, navies, and air forces preparing to attack." ¹⁹ The administration argues that "we must adapt the concept of imminent threat to the capabilities and objectives of today's adversaries." ²⁰ The National Security Strategy, however, provides no hints about how to modify imminence -- a temporal concept -- to address a future of rogue nations, hostile international terrorist organizations, and the potential destructiveness of weapons of mass destruction. It simply notes that the "United States has long maintained the option of preemptive actions to counter a sufficient threat to our national security." ²¹ It does not define when a threat might become "sufficient" to justify the use of force.”>

US use of pre-emptive force is like a loaded gun, setting precedent for the endless pre-emptive use of force by others

Stephanie Bellier - Universite d'Aix-en-Provence - Symposium: French and American Perspectives Towards International Law and International Institutions: Article: UNILATERAL AND MULTILATERAL PREVENTIVE SELF-DEFENSE – Maine Law Review – 2006 – L/N

<Any political doctrine of the United States has a real potential to significantly influence international law because the United States has always occupied a privileged place on the international stage. This place of privilege confers a particular authority on its doctrines. From this perspective, American approval of the doctrine of preventive self-defense threatens to overturn existing principles of international law. That is why U.N. Secretary General Kofi Annan said of the new United States strategy that it:

represents a fundamental challenge to the principles on which, however imperfectly, world peace and stability have rested for the last fifty-eight years. My concern is that, if it were to be adopted, it could set precedents that resulted in a proliferation of the unilateral and lawless use of force, with or without justification. ¹¹⁵

The U.S. is also taking a great risk, for any precedent created by its practice will also be available, "like a loaded gun, for other states to use as well." ¹¹⁶ The U.S. has worked against the preemptive use of force since 1945. ¹¹⁷ A precedent of preemptive self-defense "would provide legal justification for Pakistan to attack India, for Iran to attack Iraq, for Russia to attack Georgia, for Azerbaijan to attack Armenia, for North Korea to attack South Korea, and so on." ¹¹⁸

It may therefore not be in the best interests of the United States to question positive international law. And in fact the United States may not really be seeking to challenge existing international law as such. In the past the United States has been opposed to a right of preemptive self-defense "because it has found the U.N. Charter rules to be in its interest as a matter of policy and prudence [I]t is not in the interest of the United States to reconstruct the law of the Charter so as to dilute and confuse its normative prohibitions." ¹¹⁹>

The Bush Doctrine's quest to secure the world only breeds insecurity

Robert Lifton - Research Associate in Psychiatry of *Harvard University* -
"Superpower Syndrome: America's Apocalyptic Confrontation With the World," pg. 112-116, 2003

Despite the Bush administration's constant invocation of the theme of "security," the war on terrorism has created the very opposite—a sense of fear and insecurity among Americans, which is then mobilized in support of further aggressive plans in the extension of the larger "war." What results is a vicious circle that engenders what we seek to destroy: our excessive response to Islamist attacks creating ever more terrorists and, sooner or later, more terrorist attacks, which will in turn lead to an escalation of the war on terrorism, and so on. The projected "victory" becomes a form of aggressive longing, of sustained illusion, of an unending "Fourth World War" and a mythic cleansing—of terrorists, of evil, of our own fear. The American military apocalyptic can then be said to partner with and act in concert with the Islamist apocalyptic.

Preemption only spurs more proliferation

Joseph Cirincione - director of the Nonproliferation Project at the Carnegie Endowment for International Peace - "Can Preventive War Cure Proliferation?" - *Foreign Policy*, No. 137. Jul. - Aug., 2003 - pp. 68 – JSTOR

<Moreover, to be an effective treatment for proliferation, preventive war must not only remove the direct threat, it must also dissuade would-be proliferators. The United States and other concerned states may yet try to use the Iraq treatment as an object lesson to induce states such as North Korea and Iran to change their behavior. But the early signs are that these regimes have drawn an opposite conclusion. As of late May, U.S. officials were reporting that North Korea is accelerating its nuclear program, not abandoning it. Iran, too, has consciously raised the public profile of its ostensibly civilian nuclear program and insisted that it would acquire full nuclear fuelcycle capability, thus enabling it to enrich uranium to weapon-grade levels and reprocess plutonium from reactor fuel. Like India's army chief of staff after the first Iraq war, officials in Pyongyang and Tehran may believe that if one day you find yourself opposed by the United States, you'd better have a nuclear weapon.>

The Bush Doctrines radical unilateral stance gives others a reason to fear the U.S. offsetting international perception

Robert Pape - "Soft Balancing against the United States" - Professor of Political Science at University of Chicago - International Security vol. 30 p. 7-45 - Project Muse

<First, the most consequential effect of the Bush strategy will be a fundamental transformation in how major states react to future uses of U.S. power. The United States has long been a remarkable exception to the rule that states balance against superior power. Aside from the Soviet Union, major powers have rarely balanced against it. The key reason is not the United States' overwhelming power relative to that of other major powers, which has varied over time and so cannot explain this nearly constant pattern. Rather, until recently the United States enjoyed a robust reputation for nonaggressive intentions toward major powers and lesser states beyond its own hemisphere. Although it has fought numerous wars, the United States has generally used its power to preserve the established political order in major regions of the world, seeking to prevent other powers from dominating rather than seeking to dominate itself. The Bush strategy of aggressive unilateralism is changing the United States' long-enjoyed reputation for benign intent and giving other major powers reason to fear its power.>

US Security would be best served by abandoning the Bush Doctrine's policy of unilateralism

Robert Pape - "Soft Balancing against the United States" - Professor of Political Science at University of Chicago - International Security vol. 30 p. 7-45 - Project Muse

<Third, soft balancing is likely to become more intense if the United States continues to pursue an aggressively unilateralist national security policy. Although soft balancing may be unable to prevent the United States from achieving specific military aims in the near term, it will increase the costs of using U.S. power, reduce the number of countries likely to cooperate with future U.S. military adventures, and possibly shift the balance of economic power against the United States. For example, Europe, Russia, and China could press hard for the oil companies from countries other than the United States to have access to Iraqi oil contracts, which would increase the economic costs of U.S. occupation of the country. Europeans could also begin to pay for oil in euros rather than in dollars, which could reduce demand for the dollar as the world's reserve currency and so increase risks of inflation and higher interest rates in the United States. Most important, soft balancing could eventually evolve into hard balancing. China and European states could also increase their economic ties with Russia while the Kremlin continues or even accelerates support for Iran's nuclear program, a step that would negate U.S. economic pressure on Russia while signaling the start of hard balancing against the United States.

Soft balancing, however, is not destiny. The Bush administration's national security strategy of aggressive unilateralism is the principal cause of soft balancing and repudiating this strategy is the principal solution. In practice, this would mean an explicit rejection of the strategy's most extreme elements (e.g., unilateral preventive war), renouncement of the most serious reasons to doubt U.S. motives (e.g., unilateral control over Iraqi oil contracts), and reestablishment of the U.S. commitment to solve important international problems multilaterally (e.g., a renewed commitment to the UN). The reputation of the United States for benign intent would slowly return, and the incentives for balancing against it would markedly decline. Although rare circumstances may require the unilateral use of U.S. power in the future, the security of the United States would be significantly enhanced if the Bush administration abandoned its policy of aggressive unilateralism.>

AT: Anticipatory Self Defense:

The anticipatory self defense justification laid out by the justifications for Iraq introduces dangerous possibilities for pre-emptive action to potential threats, as the power to intervene rests with that and only those states with enough military might. Such actions will only prompt the attack as states use to protect and lose their weapons

Jackson Nyamuya Maogoto - Senior Lecturer, School of Law, University of Newcastle – “Walking an International Law Tightrope: Use of Military Force to Counter Terrorism--Willing the Ends” – Brooklyn Journal of International Law – 2006 – L/N

<As Michael J. Kelly notes: Unilaterally, the United States articulated its right to act preemptively to eliminate the threat posed by a potentially nuclear-armed Iraq. However, [*456] because the existence of an imminent threat could not be established, when the president brought the old anticipatory self-defense doctrine back to life, he eliminated that threshold and replaced it with the showing of only an "emerging" threat. ²⁷⁰

Kelly further avers that, in the absence of a link between Iraq and Al Qaeda, the United States sought a doctrine that would legitimize an attack on Baghdad. ²⁷¹ Considering that a plain reading of Article 51 disallows striking Iraq absent an armed attack, the Bush Administration is required to return to the legal history books and pull out another disused doctrine to justify any unilateral military action it may take. The one that seems to fit best, albeit imperfectly, is the doctrine of anticipatory self-defense. ²⁷²

Notwithstanding the allure of a policy of anticipatory self-defence, there is little basis for such an extension of the UN Charter's right to self-defence. In justifying its attacks on Iraq, the United States relied on the concept of anticipatory self-defence, while seeking to dilute the Charter's prohibition with customary international law. UN Charter aside, there is no basis in international law to support the doctrine of "pre-emption" encompassing a right to respond to threats that might materialize at some time in the future. The test is clear--imminence, which connotes immediacy, is required to trigger self-defensive actions. A broad right of anticipatory self-defence premised on a new standard of "emerging threat" would introduce dangerous uncertainties relating to the determination of potential threats justifying pre-emptive action. With this determination being state-based, the probability of opportunistic interventions justified as anticipatory self-defence will rise. After all, the reality is that only states with the military muscle will be able to make use of this avenue, and unilateral action will inevitably be colored by national interest considerations. The development of such a right will likely prompt potential targets into striking first--to use rather than lose their biological, chemical, and nuclear weapons.>

The re-emergence of anticipatory defense doctrine to justify the pre-emptive use of force breeds fear, uncertainty, and militarism shattering a sense of collective security

Jackson Nyamuya Maogoto - Senior Lecturer, School of Law, University of Newcastle –
“Walking an International Law Tightrope: Use of Military Force to Counter Terrorism--
Willing the Ends” – Brooklyn Journal of International Law – 2006 – L/N

<As a result of the United States' aggressive policy, certain discarded pre-UN Charter doctrines are being revived in one form or the other, notably the concept of pre-emptive or anticipatory self-defence. Some critics have warned against the inherent dangers of resurrecting such pre-charter doctrines, noting that:

[*460] One of the very reasons the world community decided to do away with them was to reduce legal justifications for, and thus the possibility of, unilateral military action. The pre-Charter doctrines were used erratically and unreliably prior to 1945. Now, if these doctrines are returned to service by the world's superpower and are allowed to pass into customary practice once again, we will find ourselves in a time warp back to 1945--a period of fear, uncertainty and suspicion; a period of global dominance by a handful of nations; a period defined by the geopolitics of raw power and militaristic influence; a period of instability devoid of collective security. Even more disturbingly, some of the re-articulated rules have been watered down to allow more latitude in unilateral action. ²⁹²>

Unilateral state sponsored military action cannot be justified via anticipatory self-defense, such actions require the unique legitimacy provided by the United Nations

Jackson Nyamuya Maogoto - Senior Lecturer, School of Law, University of Newcastle –
“Walking an International Law Tightrope: Use of Military Force to Counter Terrorism--
Willing the Ends” – Brooklyn Journal of International Law – 2006 – L/N

<However in a spirited defence of pre-emptive action, other scholars assert: "Waiting for an aggressor to fire the first shot may be a fitting code for television westerns, but it is unrealistic for policy-makers entrusted with the solemn responsibility of safe-guarding the well-being of their citizenry."²⁹³ However, these critics are missing the central point--when military action is undertaken, things get real--real bombs, real missiles, real deaths. Unilateral state sponsored military action must not be based on mere apprehension backed by dubious or unclear intelligence. Once the military action is over it cannot be unmade by commissions of inquiries or concessions that perhaps a few facts were overstated. UN Secretary General Kofi Annan, in remarks regarding anticipatory self-defence during the opening of the 58th session of the UN General Assembly in September 2003, summed up the dilemma thus: Article 51 of the Charter prescribes that all States, if attacked, retain the inherent right of self-defense. But until now it has been understood that when States go beyond that, and decide to use force to deal with broader threats to international peace and security, they need the unique legitimacy provided by the United Nations.²⁹⁴

Annan concluded that in light of the reality of weapons of mass destruction, "We have come to a fork in the road. This may be a moment [*461] no less decisive than 1945 itself, when the United Nations was founded."²⁹⁵ The UN Charter seems to present a neat and tidy regime on the use of force. >

International Law Good:

Reforming International Law is key:

A reforming international law must serve as a necessary check on the possibility of state abuse of the use of force

Brian J. Foley - Visiting Associate Professor of Law, Touro College – “Avoiding a Death Dance: Adding Steps to the International Law on the Use of Force to Improve the Search for Alternatives to Force and Prevent Likely Harms” – Brooklyn Journal of International Law – 2003 – L/N

<Beyond question is the fact that international law on the use of force will not, on its own, develop into a tool for the sort of guidance proposed in this Article. There is no enforcement mechanism, and the emphasis of scholars on state practice and custom will often make pronouncements on legality late-coming and debatable, perhaps endlessly so. Moreover, those pronouncements may be ill-suited to prevent future uses of force, because circumstances may differ, making any "precedent" inapplicable. Indeed, a nation that is entrepreneurial in the use of force, and capable of using force without fear of suffering damaging responses, can offer various justifications for using force, each different from those that came before. International law scholars would trail behind, trying to make sense of the destruction, to determine whether, after all, the action was legal, while remaining impotent to prevent future damage or to influence state practice.

Thus, it is necessary to approach the law of war, and especially the *jus ad bellum*, proactively, with a reformer's attitude. International law is nascent, a work-in-progress. As such, the opportunity exists for scholars not merely to describe state practice but also to import the best ideas they can find from other legal systems, or create themselves, to build a body of law that is fair and sensible, and capable of preventing all but the most necessary and limited uses of force. >

Necessity Requirement is key:

Loosening the necessity requirement is an attempt for the ends to justify the means, yet in international law concerning the use of force, the means matter

Brian J. Foley - Visiting Associate Professor of Law, Touro College – “Avoiding a Death Dance: Adding Steps to the International Law on the Use of Force to Improve the Search for Alternatives to Force and Prevent Likely Harms” – Brooklyn Journal of International Law – 2003 – L/N

<There is no foundation in law, either, for loosening the necessity requirement in dealing with terrorism. Notably, there is no agreed-upon definition of terrorism in international law.⁸⁹ Therefore, to allow nations to use force against terrorists would place too much discretion in the hands of national leaders in an area of law that seeks to limit such discretion; under the UN Charter, nations pledge to place primary control over the use of force in the Security Council.⁹⁰ It would not necessarily reduce terrorism, but it would almost certainly result in an overall increase in the use of force, and its attendant miseries, which would contravene the UN Charter values of peace and security.⁹¹ Furthermore, eliminating the necessity requirement here [*152] is an avoidance of law, in the sense of due process, as such action appears partially grounded in a desire to punish terrorists.⁹² Whenever possible, terrorists should be dealt with through the existing legal system, national or international.⁹³

This categorical approach ultimately amounts to an attempt to use the ends to justify the means.⁹⁴ And, in the international law concerning the use of force, the means matter. If a goal can be accomplished without the use of force, then force should not be used. The inquiry into non-violent means is thus a crucial component of this area of law, and the law should give more, not less, guidance for it. >

Just War Theory requires that nations only use military force as a last resort.

John F. Coverdale, AN INTRODUCTION TO THE JUST WAR TRADITION, *Pace International Law Review*, Fall 2004, lexis.

The just war criterion of last resort expresses "the primacy of peace over war in just war thinking."ⁿ¹³¹ It requires nations to assess "all means available to meet a particular threat," and to choose among "those deemed sufficient to do so [giving] a preference [to] means other than war."ⁿ¹³² Put negatively, it requires that war be the "option least to be preferred."ⁿ¹³³ The last resort criterion does not mean that nations may have recourse to war only when no other possible alternative is available. Understood in that fashion, last resort would mean that war is never justified since one can never say that every alternative has already been tried.ⁿ¹³⁴ Neither does the last resort criterion mean that nations may morally go to war only "as the terminal point of a lengthy series of nonmilitary alternatives."ⁿ¹³⁵ The criterion of last resort "requires a considered judgment about whether some imagined alternative has a good chance of avoiding war. It does not require that every idea actually be pursued to the end of the line."ⁿ¹³⁶ To express this idea, one author has proposed renaming the criterion and calling it the requirement to avoid the precipitate recourse to force.ⁿ¹³⁷ In deciding whether to go to war or try some other alternative, nations will need to consider the potential costs of waiting. For example, it is clear in hindsight that Britain and France should have challenged Hitler much earlier than they did, and that doing so would have avoided or greatly lessened the scope and intensity of the ensuing war.ⁿ¹³⁸ In our own time, many just war theorists consider that the probability that an opponent will acquire and eventually use weapons of mass destruction must be weighed in deciding whether further delay is appropriate.ⁿ¹³⁹ It is also necessary to weigh not only the probability of success, but also the human costs of apparently non-violent alternatives to war, especially economic sanctions. Although economic sanctions do not involve the dramatic violence of war, they are a more subtle form of violence that may result in as many deaths as a war.ⁿ¹⁴⁰

Proportionality Requirement is key:

The proportionality doctrine must be maintain in effort to combat global threats via the use of force

Michael C. Bonafede – J.D. Candidate @ Cornell Law School – HERE, THERE, AND EVERYWHERE: ASSESSING THE PROPORTIONALITY DOCTRINE AND U.S. USES OF FORCE IN RESPONSE TO TERRORISM AFTER THE SEPTEMBER 11 ATTACKS - Cornell Law Review – November 2002 – L/N

<It is unquestionable, indeed almost intuitive, that proportionality must remain an important limitation on international uses of force. In fact, precisely because the proportionality doctrine is currently being tested to its utmost limits is what makes it now more important than ever before. The concepts underlying the proportionality doctrine must hold together, or nations will be uninhibited from mounting excessive and overzealous campaigns against their enemies - so long as they can concoct some feasible, yet meritless, claim of self-defense after the fact. Areas of great volatility exist in every corner of the globe, and once terrorism is added into this equation, the potential outcomes become all the more deadly.

Therefore, although the United States wants to combat global terrorism effectively, U.S. policymakers should not let their War on Terrorism serve as a precedent for the wholesale abandonment of the proportionality doctrine. Other nations may use that precedent as a justification for unleashing their military might against hostile targets, distorting the concept of the right to self-defense. If that were to happen, the possibility exists that the right to self-defense may become, in practice, much more like the blank check that it is not supposed to be.>

In the wake of September 11th, the Bush administration has asserted its right to define what is just and proportional response to an attack - U.S. policymakers must be mindful how their actions affect existing international laws governing the use of force

Michael C. Bonafede – J.D. Candidate @ Cornell Law School – HERE, THERE, AND EVERYWHERE: ASSESSING THE PROPORTIONALITY DOCTRINE AND U.S. USES OF FORCE IN RESPONSE TO TERRORISM AFTER THE SEPTEMBER 11 ATTACKS - Cornell Law Review – November 2002 – L/N

<Accordingly, U.S. policymakers must be mindful of the very real and lasting precedential effects of their chosen course for the War on Terrorism. Indeed, the U.S. response to the heinous attacks of September 11 may forever alter the international rules governing state responses to terrorist attacks, especially with regard to the proportionality of such responses. This may be due in large part to the fact that there has never been any authoritative definition of what is and what is not a proportional state response to a terrorist attack. ¹²

So now, in the wake of the deadliest terrorist strikes in U.S. history, ¹³ the Bush Administration is filling this void with its own rules and ideas about what is proportional and appropriate. According to the Bush Administration, the United States - like no other nation in the modern era - has a clear and justified mandate to use whatever means it deems necessary to combat and defeat all forms of international terrorism. ¹⁴ Adding credence to President Bush's policies to combat terrorism, the American public in large part believes that terrorism is a serious issue that the United States must address. ¹⁵ Clearly, [*160] the Bush Administration plans to use this sentiment as the foundation for its eventual expansion of the War on Terrorism to targets outside of Afghanistan. ¹⁶>

Proportionality is an important consideration of Just War Theory.

MONA FIXDAL, Department of Political Science, University of Oslo, and DAN SMITH, International Peace Research Institute, Oslo, "Humanitarian Intervention and Just War," *Mershon International Studies Review* (1998) 42, 283-312.

Like the criterion of last resort, these two criteria have both a moral and prudential basis. Proportionality here is grounded in consequentialist moral theory that holds an action is just if it produces a surplus of good over harm-taking all affected parties into consideration. This statement is also the basis of utilitarian morality. Moreover; proportionality has a prudential component: given that the reason for a just war is to achieve a just cause and promote just peace, doing more harm than good is a waste of resources and time and will probably cause a loss of political prestige. That military actions should have a reasonable hope of success can be justified by arguing that a military commander neglects his moral responsibility if he squanders his troops' lives in a lost cause (Smith 1997:27). Such action is also imprudent, wasting not only people but material and financial resources as well as time and political legitimacy.

Just war theory requires a proportional relationship between the good achieved and the cost of the war.

John F. Coverdale, AN INTRODUCTION TO THE JUST WAR TRADITION, *Pace International Law Review*, Fall 2004, lexis.

For a war to be justified, there must be a proportional relationship between the good to be achieved and the costs of the war. This might seem at first to be simply a common sense observation that one should undertake only actions whose expected benefits exceed their expected costs. Within the just war tradition, however, several factors make the principle more interesting and less obvious. In the first place, the global outlook, which characterizes the just war tradition, requires taking into account the costs and benefits to all belligerents (not merely to oneself) and even the costs and benefits to the international community.ⁿ¹¹⁹ In addition, the calculation should take into account not merely material benefits (recovery of lost territories, control of resources, etc.) and costs (money, physical deaths, destruction of property), but also the moral benefits (protection of freedom, the way of life of a people, religious values, etc.) and moral costs (the curtailment of the rights of citizens, the inevitable crimes and injustices that every war entails, the disruption of family life, the forcing of ordinary citizens to take up arms against other human beings).ⁿ¹²⁰ Although some authors list "probability of success" as an independent criterion for judging whether a war is just,ⁿ¹²¹ it can also be thought of as part of proportionality.ⁿ¹²² There does not seem to be any practical difference between the two approaches. If the goals a nation wishes to pursue have little or no chance of being achieved through a war, they can hardly justify the physical and moral costs of the war.ⁿ¹²³ In considering probability of success a nation may legitimately weigh not only the likelihood of military victory, but also factors such as "witnessing to values."ⁿ¹²⁴ On the other hand, military victory may not necessarily equate to success if military victory does not lead to achieving the objectives of the war.ⁿ¹²⁵ Judgments regarding proportionality and probability of success can be analyzed into four elements: (1) value judgments about the worth of the goals to be pursued in the war; (2) factual judgments about the war's probable costs in terms of casualties and economic and physical costs; (3) factual and value judgments about the war's probable moral costs; and (4) a value judgment about the balance between the goals to be pursued and the likely costs.ⁿ¹²⁶

Proliferation/Deterrence Solves:

Nuclear deterrence decreases chance of an attack and increases hard power.

JEFFRY A. FRIEDEN, DAVID A. LAKE, IN THIS ISSUE: THE USE AND USEFULNESS OF THE SOCIAL SCIENCES: ACHIEVEMENTS, DISAPPOINTMENTS, AND PROMISE; SPECIAL EDITORS: ROBERT W. PEARSON AND LAWRENCE W. SHERMAN:

International Relations as a Social Science: Rigor and Relevance, The American Academy of Political and Social Science, July 2005, lexis.

<Nonetheless, the theory remains relevant and insightful even today. In a recent essay, Robert Powell (2003) extended the theory to a world of rogue states, rather than superpowers, and showed how it can be applied -- with startlingly counterintuitive results -- to national missile defense (NMD). Rogue states have been defined as countries willing to take greater than usual risks in pursuit of their objectives. Powell showed that such states will possess higher than normal resolve and are more likely to be able to deter the United States in high-stakes conflicts, especially those involving the possible overthrow of the regime. This confirms the intuition held by many that states with even minimal nuclear capabilities will be able to restrain the United States in conflicts of sufficient importance to their survival. [*141] By working through the logic of deterrence theory, Powell (2003) also showed that, contrary to intuition, NMD is actually likely to increase (rather than decrease) the probability of a nuclear attack on the United States. Because NMD reduces the expected costs to the United States of a nuclear attack on its homeland, in any conflict it increases American resolve. That is, since the costs of a possible attack are lower, the United States will choose to run a greater risk of attack, all else equal. With a greater actual risk that events will escalate beyond our control, the probability that a nuclear exchange will occur must go up as well. Only if the missile shield is expected by the rogue state to work perfectly (or very nearly perfectly) will its resolve necessarily be less than that of the United States and will it capitulate before a crisis begins. At the same time, NMD gives the United States an expanded ability to coerce other countries -- an ability that increases with the efficacy of the shield. The implication of the model is that rather than reducing the risk of a nuclear attack on the United States, with all its attendant dangers and risk of devastation, NMD will actually serve to increase America's coercive power over other states. By shielding the United States, it makes American power more usable. Although Powell himself did not draw this conclusion, this seems to us to help explain why foreign policy "hawks" have pushed NMD so hard over the past two decades. Whether one supports NMD or not, there is no doubt that deterrence theory and its implications are still relevant to today's world.>

MAD still applicable to rogue nations.

Tung Yin, Disposable Deontology: The Death Penalty and Nuclear Deterrence, Alabama Law Review, Fall 2003, lexis.

One can legitimately ask whether MAD is still appropriate now that the Cold War has ended. As the current "war on terrorism" demonstrates, our greatest threat may come from non-state terrorist groups such as Al Qaeda, rather than another nation-state. If we do not need to worry about preemptive nuclear strikes from other countries, do we still need MAD? A large scale nuclear weapon such as an ICBM, which has the purpose of destroying entire cities, is generally too unwieldy to use against non-state actors.⁵⁰ Perhaps MAD can be relegated to the trashbin of ideas that once seemed good but that have outlived their usefulness, like Niels Bohr's model of the hydrogen atom. But countries such as Iran, North Korea, and any others seeking to join the nuclear weapons club are probably still deterred by MAD.⁵¹ Some believe that Saddam Hussein opted not to use any weapons of mass destruction in the Gulf War in 1991 because the United States had warned "Iraq's foreign minister that any use of nonconventional weapons would seal Iraq's destruction."⁵² North Korea's recent decision to withdraw from the Nonproliferation Treaty and to reactivate its nuclear weapons program further demonstrates the continued need for nuclear deterrence,⁵³ especially as North Korea's defection may tempt other rogue nations to follow suit.⁵⁴ If the world is due for an increase in nuclear proliferation, particularly among the least stable countries (and perhaps the ones most likely to use nuclear weapons to blackmail the world into acceding to their demands), we may be forced to continue to rely on MAD (or at least, assured destruction) in the future.⁵⁵

Proliferation/deterrence is legal under international law.

Francis A. Boyle, THE RELEVANCE OF INTERNATIONAL LAW TO THE "PARADOX" OF NUCLEAR DETERRENCE, Northwestern University Law Review, SUMMER 1986, lexis.

The two statements by the United States Army and Navy routinely have been cited by government lawyers, government apologists among international lawyers in academia or private practice, and other supporters of United States nuclear weapons policy to justify whatever was (and currently is) the fashionable United States nuclear deterrence doctrine as being essentially consistent with the requirements of international law. By successfully propagating the general belief that American nuclear deterrence policy creates no serious problems under international law, these [*1413] two statements have exercised a profound influence upon international lawyers, government officials, academics, and the military establishment.¹⁹ Even more insidiously, these two statements have contributed to the development of the facile yet erroneous opinion among such elite groups that United States nuclear deterrence policy is a matter concerning the highest national security interest of the United States, and thus the entire "Free World." This policy, therefore, supposedly exists as some metaphysical entity above and beyond the domain of international law. Thus, international legal considerations are incorrectly deemed "irrelevant" when it comes to evaluating the propriety of threatening to use nuclear weapons.²⁰

Non-proliferation doesn't solve.

Daniel H. Joyner, The Proliferation Security Initiative: Nonproliferation, Counterproliferation, and International Law, *The Yale Journal of International Law*, Summer 2005, lexis.

Notwithstanding all the effort and resources expended by the international community in concluding and maintaining these treaties and other normative regimes, along with their significant utility in accomplishing the nonproliferation of WMD and related materials and technologies, serious students of WMD proliferation have long understood that the nonproliferation regime they comprise is not a perfect system and was never designed or expected to bring about a zero proliferation reality. Borders are too porous, corruption at both high and low levels is too rampant in places where WMD materials and technologies are already insufficiently secure, and both legitimate commercial and illicit trafficking in WMD-related and dual-use items and technologies are too big a business for states to hope to control it completely and effectively through state-to-state treaties and supply-side export control regimes. Adding to the difficulties faced by the international community in efforts to prevent proliferation through multilateral normative regimes is the increasing phenomenon of secondary proliferation, or proliferation from non-traditional supplier states, many of which remain outside the existing regime structures. Indeed, leakages and transfers to places and groups of concern to many powerful countries, both of materials and of intangible technological know-how, are disturbingly commonplace. There are currently nine declared or suspected nuclear weapon states and many more states that possess chemical and biological weapons; a number of others are suspected of having mature clandestine weapon development programs.⁵¹ When U.N. inspectors entered [*519] Iraq after the 1991 Gulf War, they found a covert WMD program of staggering proportions, the development of which, as previously noted, had been significantly facilitated by dual-use goods obtained from Western companies, in many cases through transactions that were arguably legal under national export control laws.⁵²

Proliferation between states decreases the chance of a nuclear war

BRUCE D. BERKOWITZ, Proliferation, Deterrence, and the Likelihood of Nuclear War, , *University of Minnesota*, *Journal of Conflict Resolution*, Vol. 29, No. 1, 112-136 (1985)

The argument of these writers is as follows: Any nuclear power can launch a nuclear attack against any nonnuclear power, because there is no threat of retaliation. However, nuclear powers cannot attack other nuclear powers (at least not with nuclear weapons), because any such attack will be returned in kind. These theorists admit that proliferation in its early stages may raise the probability of nuclear war, because an increasing number of nuclear powers would be poised to attack a fairly large number of nonnuclear powers. But, they say, in its later stages proliferation will lower the probability of nuclear war because most states would then have the ability to retaliate and would thus be immune from nuclear attack. Indeed, these theorists would claim that when all states have nuclear weapons, the probability of their being used would be zero, because every state could threaten retaliation. The main danger of proliferation, according to this argument, is that obstacles to proliferation may stop the spread of nuclear weapons halfway, so that a significant number of nuclear powers would be presented with a large number of nonnuclear powers, the kind of situation most likely to breed nuclear war.

Nonproliferation agreements fail, proliferation is inevitable.

Orde F. Kittrie, AVERTING CATASTROPHE: WHY THE NUCLEAR NONPROLIFERATION TREATY IS LOSING ITS DETERRENCE CAPACITY AND HOW TO RESTORE IT,

Michigan Journal of International Law, Winter 2007, lexis.

The NPT's verification weaknesses are a function of the NPT's history, the overlaps between military and civilian nuclear technology, and the tensions between the nonproliferation and "peaceful use" provisions of the NPT. The NPT and its principal verification tool, the safeguards agreement, were developed in the 1960s and 1970s, when the technology for constructing a nuclear weapon was not widely available and the greatest proliferation risks were thought to be from technologically advanced "countries like Germany and Sweden, democratic states that were fairly open."⁶⁵ With such countries, it was relatively easy to both trust and verify. Today, more than sixty years after the Hiroshima and Nagasaki detonations, detailed descriptions of how to construct a nuclear weapon are widely available, including over the Internet.⁶⁶ It is relatively easy to create every part of a nuclear weapon except the weapons-grade fissile material - highly enriched uranium (HEU) or plutonium - at the weapon's core.⁶⁷ From a technological perspective, then, only the acquisition of weapons-grade fissile material stands between most states (and sophisticated terrorist groups) and manufacturing a nuclear weapon.⁶⁸ Civilian nuclear power technology and the nuclear technology needed to develop weapons-grade fissile material overlap considerably. Any nuclear power program that operates fully independently (with a "full fuel cycle") includes technology readily adaptable to the production of weapons-grade fissile material. The fuel cycle stages most readily adaptable to producing such material are the enrichment and reprocessing stages.⁶⁹ Yet, under NPT Article IV as currently interpreted, state parties (including NNWSs) are not prohibited from possessing enrichment or reprocessing technology, or even weapons-grade nuclear material, so long as the technology and material are "for peaceful purposes" and "in conformity with articles I and II" of the NPT. As IAEA Director General El Baradei puts it: "under the current regime ... there is nothing illicit in a non-nuclear-weapon state having enrichment or reprocessing technology, or possessing weapon-grade nuclear material."⁷⁰ The overlap between civilian and military nuclear technologies poses perhaps the most significant challenge facing the nuclear nonproliferation regime: the ease with which a state - in the guise of conducting a peaceful nuclear weapons program - can acquire either weapons-grade fissile material or the technologies necessary for its production.

Proliferation is inevitable.

BARRY R. SCHNEIDER Nuclear Proliferation and CounterProliferation: Policy Issues and Debates, *Air War College*, Mershon International Studies Review, 1994.

A number of major proliferation problems give birth to the view that proliferation can probably only be managed. Among these are the multipolar world that has emerged in the post-Cold War period with less structure, predictability, and hierarchy than the bipolar world which appeared to keep proliferation in check (cf. Clausen, 1993; Frankel, 1993; Mearsheimer, 1993). Also important is the proposition that as science and technology spread so do the possibilities of developing nuclear capability. Furthermore, since the Gulf War, new alarm has risen about the leaky export control regime and limited international inspection regime that has permitted threshold states, like Iraq, to build nuclear arms in secret even when they were members of the NPT and subject to IAEA inspections and safeguards. Nonetheless, argue the proliferation optimists, staying alert to these circumstances can facilitate the development of ways to prevent the worst outcomes and to keep proliferation in check.

Pre-emptive strikes are unlikely; deterrence still works.

David J. Karl, "Proliferation Pessimism and Emerging Nuclear Powers," *International Security*, Vol. 21, No. 3. (Winter, 1996-1997), pp. 87-119.

Optimists have relaxed views of the preventive-war dangers entailed in situations in which a nuclear power confronts a nuclearizing rival. The practical difficulties of ensuring a disarming strike to preclude any possibility of nuclear retaliation make preventive actions a military gamble that states are very unlikely to take. As Waltz explains, "prevention and pre-emption are difficult games because the costs are so high if the games are not perfectly played. . . . Ultimately, the inhibitions [against such attacks] lie in the impossibility of knowing for sure that a disarming strike will totally destroy an opposing force and in the immense destruction even a few warheads can wreak."²⁵ To optimists, states will have to learn to live with a rival's emerging nuclear armory. Because strategic uncertainty is seen as having a powerful dissuasive effect, optimists usually view the very increase in the numbers of nuclear-armed states as an additional element of stability. Dagobert Brito and Michael Intriligator, for instance, argue that uncertainty over the reaction of other nuclear powers will make all hesitant to strike individually. As an example, they point to the restraint the superpowers exercised on each other in the 1960s, when first the United States and then the Soviet Union contemplated military action against China's nascent nuclear weapon sites. The net effect of the uncertain reaction of others is that "the probability of deliberate nuclear attack falls to near zero with three, four, or more nuclear nations."²⁷

Proliferation causes deterrence.

David J. Karl, "Proliferation Pessimism and Emerging Nuclear Powers," *International Security*, Vol. 21, No. 3. (Winter, 1996-1997), pp. 87-119.

Proliferation optimists hold generally reassuring views of the effects of nuclear proliferation on regional stability⁷ They contend that the traditional utilitarian relationship between military force and political behavior by states was turned fundamentally on its head by the development of nuclear weapons. Rooted in Gaullist conceptions of deterrence strategy and in existential deterrence thinking, proliferation optimism is based on the premise that states behave with robust circumspection when confronted with even a modicum of nuclear risk.⁸ Fearful of the prospect of nuclear engagement, states are dissuaded from acts that raise this risk. Kenneth Waltz, for example, argues that "the presence of nuclear weapons makes states exceedingly cautious. . . .Why fight if you can't win much and might lose everything?" Since war between nuclear-armed adversaries involves the possibility of reciprocal destruction, even annihilation, the prospects for a stable deterrent relationship between them-and by extension, within an international system composed of numerous nuclear powers are alleged to be much greater than in a non-nuclear world. Waltz asserts that "whatever the number of nuclear states, a nuclear world is tolerable if those states are able to send convincing deterrent messages: It is useless to attempt to conquer because you will be severely punished."

Deterrence works.

Michael R. Kraig, "Nuclear Deterrence in the Developing World: A Game-Theoretic Treatment," *Journal of Peace Research*, Vol. 36, No. 2. (Mar., 1999), pp. 141-167.

First, 'War becomes less likely as the costs of war rise in relation to possible gains' (Waltz, 1981: 4). Since nuclear weapons raise the specter of complete annihilation of one's population and resources, gains cannot possibly be high enough to risk conflict. Deescalation becomes the norm because escalation risks total loss (Waltz, 1981: 5). The preceding factors are bolstered by the certainty of devastating losses. The difficulty of destroying 100% of a defender's retaliatory force in an offensive first strike negatively affects any probabilities of gain in a conflict (Hagerty, 1993: 272-273). Unlike conventional forces, countervalue nuclear weapons do not have the ability to destroy other nuclear forces with high efficiency, and the offensive benefits of 'counterforce' weapons have yet to be demonstrated convincingly. Therefore, any technological or quantitative gains in an aggressor's nuclear weaponry will not make the opponent's nuclear force suddenly obsolete (Feldman, 1982: 50; Waltz, 1981: 6; see also Jervis, 1984: 150; Rathjens et al., 1991: 108). Faced with this inherent inability to destroy an opponent's nuclear arsenal, a potential aggressor's calculations are thereby reduced to the simple question, 'Do we expect to lose one city or two, two cities or ten?' (Waltz, 1981: 7). This point underscores the radical qualitative difference between nuclear and conventional wars (Waltz, 1981: 6).

Deterrence will only work if there exists the possibility for nukes to be developed by other countries.

Kenneth Waltz, "The Spread of Nuclear Weapons: More May Better," *Adelphi Papers*, Number 171 (London: International Institute for Strategic Studies, 1981).

States are deterred by the prospect of suffering severe damage and by their physical inability to do much to limit it. Debate over the Soviet Union's civil defence efforts calls attention to this inability. Defensive measures can reduce casualties, but they would still be immense were either of the great powers launch a determined attack. Moreover, civil defence cannot save the Soviet Union's heavily concentrated industries. Warheads numbered in the hundreds can destroy the United and the Soviet Union as viable societies no matter what defensive measures they take. Deterrence works because nuclear weapons enable one state to punish another state severely without first defeating it. 'Victory', in Thomas Schellings words, 'is no longer a prerequisite for hurting the enemy'. Countries armed only with conventional weapons can hope that their military forces will be able to limit the damage an attacker can do. Among countries armed with strategic nuclear forces, the hope of avoiding heavy damage depends mainly on the attacker's restraint and little on one's own efforts. Those who compare expected deaths through strategic exchanges of nuclear warheads with casualties suffered by the Soviet Union in World War II overlook this fundamental difference between conventional and nuclear worlds.

Deterrence depends on what countries can do, without nukes deterrence will never occur.

Kenneth Waltz, "The Spread of Nuclear Weapons: More May Better," *Adelphi Papers*, Number 171 (London: International Institute for Strategic Studies, 1981).

Deterrence rests on what countries *can* do to each other with strategic nuclear weapons. From this statement, one easily leaps to the wrong conclusion: that deterrent strategies, if they have to be carried through, will produce a catastrophe. That countries are able to annihilate each other means neither that deterrence depends on their threatening to do so nor that they will do so if deterrence fails. Because countries heavily armed with strategic nuclear weapons can carry war to its ultimate intensity, the control of force, in wartime as in peace-time, becomes the primary objective. If deterrence fails, leaders will have the strongest incentives to keep force under control and limit damage rather than launching genocidal attacks. If the Soviet Union should attack Western Europe, NATO'S objectives would be to halt the attack and end the war. The United States has long had the ability to place hundreds of warheads precisely on targets in the Soviet Union. Surely we would strike military targets before striking industrial targets and industrial targets before striking cities. The intent to do so is sometimes confused with a war-fighting strategy, which it is not. It would not significantly reduce the Soviet Union's ability to hurt us. It is a deterrent strategy, resting initially on the threat to punish. The threat, if it fails to deter, is appropriately followed not by spasms of violence but by punishment administered in ways that convey threats to make the punishment more severe.

Proliferation ensures that no country can gain an advantage by striking first

Kenneth N. Waltz , Emeritus Ford Professor of Political Science at UC Berkeley. He is past President of the American Political Science Association – “Nuclear Myths and Political Realities” - *The American Political Science Review*, Vol. 84, No. 3. (Sep., 1990), pp. 731-745.

<Military actions have to be related to an objective. Because of the awesome power of nuclear weapons, the pressure to use them in ways that achieve the objective at hand while doing and suffering a minimum of destruction would be immense. It is preposterous to think that if a Soviet attack broke through NATO's defenses, the United States would strike thousands of Soviet military targets or hundreds of Soviet cities. Doing so would serve no purpose. Who would want to make a bad situation worse by launching wantonly destructive attacks on a country that can strike back with comparable force, or, for that matter, on a country that could not do so? In the event, we might strike a target or two-military or industrial chosen to keep casualties low. If the Soviet Union had run the preposterous risk of attacking the center of Europe believing it could escape retaliation, we would thus show them that they were wrong while conveying the idea that more would follow if they persisted. Among countries with abundant nuclear weapons, none can gain an advantage by striking first. The purpose of demonstration shots is simply to remind everyone-should anyone forget-that catastrophe threatens. Some people purport to believe that if a few warheads go off, many will follow. This would seem to be the least likely of all the unlikely possibilities. That no country gains by destroying another's cities and then seeing a comparable number of its own destroyed in return is obvious to everyone.>

The threat of annihilation dissuades first strikes

Kenneth N. Waltz , Emeritus Ford Professor of Political Science at UC Berkeley. He is past President of the American Political Science Association – “Nuclear Myths and Political Realities” - *The American Political Science Review*, Vol. 84, No. 3. (Sep., 1990), pp. 731-745.

<The catastrophe promised by nuclear war contrasts sharply with the extreme difficulty of predicting outcomes among conventional competitors. This makes one wonder about the claimed dependence of deterrence on perceptions and the alleged problem of credibility. In conventional competitions, the comparative qualities of troops, weaponry, strategies, and leaders are difficult to gauge. So complex is the fighting of wars with conventional weapons that their outcomes have been extremely difficult to predict. Wars start more easily because the uncertainties of their outcomes make it easier for the leaders of states to entertain illusions of victory at supportable cost. In contrast, contemplating war when the use of nuclear weapons is possible focuses one's attention not on the probability of victory but on the possibility of annihilation. Because catastrophic outcomes of nuclear exchanges are easy to imagine, leaders of states will shrink in horror from initiating them. With nuclear weapons, stability and peace rest on easy calculations of what one country can do to another. Anyone- political leader or man in the street -can see that catastrophe lurks if events spiral out of control and nuclear warheads begin to fly. The problem of the credibility of deterrence, a big worry in a conventional

world, disappears in a nuclear one.>

Nations have an incentive to de-escalate weapons programs rather than engaging in an arms race

Kenneth N. Waltz , Emeritus Ford Professor of Political Science at UC Berkeley. He is past President of the American Political Science Association – “Nuclear Myths and Political Realities” - *The American Political Science Review*, Vol. 84, No. 3. (Sep., 1990), pp. 731-745.

<Attempts to gain escalation dominance, like efforts to raise the nuclear threshold, betray a failure to appreciate the strategic implications of nuclear weapons. Escalation dominance, so it is said, requires a "seamless web of capabilities" up and down "the escalation ladder." Earlier, it had been thought that the credibility of deterrence would be greater if some rungs of the escalation ladder were missing. The inability to fight at some levels would make the threat to use higher levels of force easy to credit. But again, since credibility is not a problem, this scarcely matters militarily. Filling in the missing rungs neither helps nor hurts. Escalation dominance is useful for countries contending with conventional weapons only. Dominance, however, is difficult to achieve in the absence of a decisive weapon. Among nuclear adversaries the question of dominance is pointless because one second strike force cannot dominate another. Since strategic nuclear weapons will always prevail, the game of escalation dominance cannot be played. Everyone knows that anyone can quickly move to the top rung of the ladder. Because anyone can do so, all of the parties in a serious crisis have an overriding incentive to ask themselves one question: How can we get out of this mess without nuclear warheads' exploding? The presence of nuclear weapons forces them to figure out how to deescalate, not how to escalate.>

A Nuclear Taboo keeps nations from using nuclear weapons

Nina Tannenwald - 2003-2006 she served as director of Brown's International Relations Program - "The Nuclear Taboo: The United States and the Normative Basis of Nuclear Non-Use"- *International Organization* - Vol. 53, No. 3. - Summer, 1999 - pp. 433-468.

<The taboo is a systemic phenomenon. The shift in international attitudes toward nuclear weapons from 1945 to the present is well documented based on global public opinion, disarmament politics at the United Nations and other multilateral fora, and diplomatic statements in, and repeated resolutions of, the UN General Assembly calling for a ban on nuclear weapons. The decreasing legitimacy of nuclear weapons is not simply reflected in public opinion but has become institutionalized in an array of international agreements and regimes, both multilateral and bilateral, which together circumscribe the realm of legitimate nuclear use and restrict freedom of action with respect to nuclear weapons. These include nuclear weapons free zones, arms control agreements, "negative security assurances," and the general laws of armed conflict." Although there is no explicit legal prohibition outlawing nuclear weapons use, and its legality remains in dispute, the trend line of decreasing legitimacy and circumscribed legality is clear.¹² Together, these agreements enhance the normative presumption against nuclear use, and, by multiplying the fora where a decision to use nuclear weapons would have to be defended, substantially increase the burden of proof for any such decision.>

States and terrorists have different reasons to acquire nuclear arms and they may not be offensive; for states, nuclear weapons can be used as a deterrent against foreign attack or as a symbol of prestige; terrorists want to maximize damage

Harold Brown, "New Nuclear Realities" *The Washington Quarterly* 31.1 (2007) 7-22

Motivations for the acquisition of nuclear weapons vary from one prospective nuclear entity to another. For terrorist groups, the wish to be able to inflict maximum damage is enough of a reason. For nations, the situation is more complex, with a mixture of drivers of different weights. As McGeorge Bundy points out, international prestige played a significant role in the British and French decisions.³ It provided what each wanted in the way of "a place at the table." Internal prestige can also play a role; elements of the Indian scientific community rather than the Indian military are believed to have led the push for India's nuclear weapons program to show that they could. The overwhelming motive, however, is usually the belief that the possession of nuclear weapons will improve national security or that not having them will damage it. The rationale can take several forms. The ability to retaliate with nuclear weapons is seen as a deterrent to nuclear attack on the possessor. It is also seen as a deterrent to conventional attack, especially a conventional attack by an opponent considered to have an overwhelming advantage in conventional forces.

Empirically, nuclear proliferation has been spurred by the desire for defensive deterrents

Harold Brown, "New Nuclear Realities" *The Washington Quarterly* 31.1 (2007) 7-22

A version of this reasoning is surely part of the motivation behind the Iranian and North Korean programs. Although a nuclear exchange with the United States would not be symmetrically damaging, the prospective loss to the United States could well prompt second thoughts about whether an attempt at regime change was worth the risk. Those two states are not the first to have been so motivated. Israeli beliefs about conventional arms inferiority, whether justified or not, were behind its nuclear weapons program, as were Pakistani concerns about Indian conventional superiority and perhaps India's concern about China. Chinese concerns about conventional and nuclear attack by the Soviets and the United States played a role in China's decision. Some of the later arrivals and the newer prospects also see the value of a nuclear weapons arsenal for the purpose of intimidating, threatening, and influencing regional rivals and neighbors.

Soft Power is key/Hard Power Bad:

Negotiation is the best method of denuclearization

Sheena Chestnut, Illicit Activity and Proliferation North Korean Smuggling Networks
International Security 32.1 (2007) 80-111

Negotiations in pursuit of denuclearization should remain the priority of the United States for several reasons. First, they are the only way to permanently eliminate the threat of North Korea exporting nuclear material. Second, despite the efficacy of countersmuggling efforts in constraining North Korea's capabilities, these tools are far from a silver bullet. Interdiction has a notoriously low success rate, with antidrug campaigns averaging between 5 and 25 percent,¹²⁵ and PSI's eleven 2004 interdictions are less than reassuring when placed against an estimated sixty-five nuclear smuggling incidents every year.¹²⁶ These statistics suggest not only that interdiction is unlikely to catch a North Korean export if one is attempted, but also that it may be a less effective deterrent than is sometimes hypothesized.¹²⁷

U.S. Hegemony provokes nuclear weapons use

Ivan Eland -Director of Defense Policy Studies at Cato - "Does U.S. Intervention Overseas Breed Terrorism?" - Foreign Policy Briefing No. 50 - December 17, 1998
(<http://www.cato.org/pubs/fpbriefs/fpb50.pdf>)

<All of the examples of terrorist attacks on the United States can be explained as retaliation for U.S. intervention abroad. Empirically validating the connection between an interventionist foreign policy and such attacks is more critical than ever now that terrorists can more readily obtain weapons of mass destruction and seem to be more willing to use them. The extensive number of incidents of terrorism linked to U.S. foreign policy implies that the United States could substantially reduce the chance of catastrophic terrorist attacks if it lowered its military profile overseas.¹⁶ The United States needs to adopt a new policy that would use military force only as a last resort in the defense of truly vital national interests. The Cold War has ended, yet the United States continues to use its worldwide military dominance to intervene anywhere and everywhere in an effort to maintain its defense perimeter far forward. In a changed strategic environment in which ostensibly weak terrorist groups might acquire weapons of mass destruction, such an extended defense perimeter may actually increase the catastrophic threat to the American homeland. Even the U.S. Department of Defense admits the problem: Indeed, a paradox of the new strategic environment is that American military superiority actually increases the threat of nuclear, biological, and chemical attack against us by creating incentives for adversaries to challenge us asymmetrically. These weapons may be used as tools of terrorism against the American people.¹⁷ But proponents of America's current interventionist foreign policy, such as the National Review, ignore the new strategic realities and criticize the proposed policy of military restraint as "preemptively capitulating to the terrorists."¹⁸ Adopting a restrained foreign policy has nothing to do with appeasing terrorists. Terrorist acts are morally outrageous and should be punished whenever possible. Reducing the motive for terrorists to attack the United States with weapons of mass destruction is not the only reason to adopt a policy of military restraint overseas, although it is a sensible one. In the more benign environment of a post-Cold War world, promiscuous military intervention by the United States--which can result in lost lives, high financial costs, and open-ended commitments--is no longer needed. It is common sense, rather than appeasement, for the United States to adapt its activist Cold War foreign policy to the new strategic environment that requires more restraint overseas.>

Soft power is key to solve terrorism

Nye, Joseph - former assistant secretary of defense and president of Harvard's Kennedy school of government – “Soft Power: The Means to Success in World Politics” - 2004, p. 129

<It is true that the new threat of transnational terrorism increased American vulnerability, and some of our unilateralism after September 11 was driven by fear. But the United States cannot meet the new threat identified in the national security strategy without the cooperation of other countries. They will cooperate up to a point out of mere self-interest, but their degree of cooperation is also affected by the attractiveness of the United States. Take Pakistan for example. President Pervez Musharraf faces a complex game of cooperating with the United States in the war on terrorism while managing a large anti-American constituency at home. He winds up balancing concessions and retractions. If the United States were more attractive to the Pakistani populace, we would see more concessions in the mix.>

Soft power is key to solve modern problems like nuclear proliferation, nationalism, etc. that hard power cannot solve

Joseph Nye - Former Assistant Secretary of Defense and Dean of Harvard University's John F. Kennedy School of Government – “The Paradox of American Power: Why the World’s only Superpower Can’t Go It Alone” - Oxford University Press – 2002 - pg 5-7

Today the foundations of power have been moving away from the emphasis on military force and conquest. Paradoxically, nuclear weapons were one of the causes. As we know from the history of the Cold War, nuclear weapons proved so awesome and destructive that they became muscle bound—too costly to use except, theoretically, in the most extreme circumstances.¹⁹ A second important change was the rise of nationalism, which has made it more difficult for empires to rule over awakened populations. In the nineteenth century, a few adventurers conquered most of Africa with a handful of soldiers, and Britain ruled India with a colonial force that was a tiny fraction of the indigenous population. Today, colonial rule is not only widely condemned but far too costly, as both Cold War superpowers discovered in Vietnam and Afghanistan. The collapse of the Soviet empire followed the end of European empires by a matter of decades.

A third important cause is societal change inside great powers. Postindustrial societies are focused on welfare rather than glory, and they loathe high casualties except when survival is at stake. This does not mean that they will not use force, even when casualties are expected—witness the 1991 Gulf War or Afghanistan today. But the absence of a warrior ethic in modern democracies means that the use of force requires an elaborate moral justification to ensure popular support (except in cases where survival is at stake). Roughly speaking, there are three types of countries in the world today: poor, weak preindustrial states, which are often the chaotic remnants of collapsed empires; modernizing industrial states such as India or China; and the postindustrial societies that prevail in Europe, North America, and Japan. The use of force is common in the first type of country, still accepted in the second, but less tolerated in the third. In the words of British diplomat Robert Cooper, "A large number of the most powerful states no longer want to fight or to conquer."²⁰ War remains possible, but it is much less acceptable now than it was a century or even half a century ago.²¹

Finally, for most of today's great powers, the use of force would jeopardize their economic objectives. Even nondemocratic countries that feel fewer popular moral constraints on the use of force have to consider its effects on their economic objectives. As Thomas Friedman has put it, countries are disciplined by an "electronic herd" of investors who control their access to capital in a globalized economy.²² And Richard Rosecrance writes, "In the past, it was cheaper to seize another state's territory by force than to develop the sophisticated economic and trading apparatus needed to derive benefit from commercial exchange with it."²³ Imperial Japan used the former approach when it created the Greater East Asia Co-prosperity Sphere in the 1930s, but Japan's post-World War II role as a trading state turned out to be far more successful, leading it to become the second largest national economy in the world. It is difficult now to imagine a scenario in which Japan would try to colonize its neighbors, or succeed in doing so.

Soft power is essential to the US agenda – it legitimizes hard power which is key to military effectiveness

Joseph Nye - Former Assistant Secretary Of Defense - "U.S. Power and Strategy after Iraq"
- Jul/Aug 2003

The willingness of other countries to cooperate in dealing with transnational issues such as terrorism depends in part on their own self-interest, but also on the attractiveness of American positions. Soft power lies in the ability to attract and persuade rather than coerce. It means that others want what the United States wants, and there is less need to use carrots and sticks. Hard power, the ability to coerce, grows out of a country's military and economic might. Soft power arises from the attractiveness of a country's culture, political ideals, and policies. When U.S. policies appear legitimate in the eyes of others, American soft power is enhanced. Hard power will always remain crucial in a world of nation-states guarding their independence, but soft power will become increasingly important in dealing with the transnational issues that require multilateral cooperation for their solution.

One of Rumsfeld's "rules" is that "weakness is provocative." In this, he is correct. As Osama bin Laden observed, it is best to bet on the strong horse. The effective demonstration of military power in the second Gulf War, as in the first, might have a deterrent as well as a transformative effect in the Middle East. But the first Gulf War, which led to the Oslo peace process, was widely regarded as legitimate, whereas the legitimacy of the more recent war was contested. Unable to balance American military power, France, Germany, Russia, and China created a coalition to balance American soft power by depriving the United States of the legitimacy that might have been bestowed by a second UN resolution. Although such balancing did not avert the war in Iraq, it did significantly raise its price. When Turkish parliamentarians regarded U.S. policy as illegitimate, they refused Pentagon requests to allow the Fourth Infantry Division to enter Iraq from the north. Inadequate attention to soft power was detrimental to the hard power the United States could bring to bear in the early days of the war. Hard and soft power may sometimes conflict, but they can also reinforce each other. And when the Jacksonians mistake soft power for weakness, they do so at their own risk.

One instructive usage of soft power that the Pentagon got right in the second Gulf War has been called the "weaponization of reporters." Embedding reporters with forward military units undercut Saddam's strategy of creating international outrage by claiming that U.S. troops were deliberately killing civilians. Whereas CNN framed the issues in the first Gulf War, the diffusion of information technology and the rise of new outlets such as al Jazeera in the intervening decade required a new strategy for maintaining soft power during the second. Whatever other issues it raises, embedding reporters in frontline units was a wise response essential to the US agenda, since it justifies hard power. Although the new unilateralists are right that maintaining U.S. military strength is crucial and that pure multilateralism is impossible, they make important mistakes that will ultimately undercut the implementation of the new security strategy. Their first mistake is to focus too heavily on military power alone. U.S. military power is essential to global stability and is a critical part of the response to terrorism. But the metaphor of war should not blind Americans to the fact that suppressing terrorism will take years of patient, unspectacular civilian cooperation with other countries in areas such as intelligence sharing, police work, tracing financial flows, and border controls. For example, the American military success in Afghanistan dealt with the

easiest part of the problem: toppling an oppressive and weak government in a poor country. But all the precision bombing destroyed only a small fraction of al Qaeda's network, which retains cells in some 60 countries. And bombing cannot resolve the problem of cells in Hamburg or Detroit. Rather than proving the new unilateralists' point, the partial nature of the success in Afghanistan illustrates the continuing need for cooperation. The best response to transnational terrorist networks is networks of cooperating government agencies.

Prevention not Preemption:

“Prevention” differs from “preemption” because it takes as its operating assumption that a certain end should be avoided, but it does not dictate the means to be employed to actualize the end; thus prevention requires a method of application

Brian Massumi. Potential Politics and the Primacy of Preemption. *Theory & Event* 10:2 | © 2007

Preemption is not prevention. Although the goal of both is to neutralize threat, they fundamentally differ epistemologically and ontologically. Epistemologically, prevention assumes an ability to assess threats empirically and identify their causes. Once the causes are identified, appropriate curative methods are sought to avoid their realization. Prevention operates in an objectively knowable world in which uncertainty is a function of a lack of information, and in which events run a predictable, linear course from cause to effect. As we will see, this is very different from the epistemological premise of preemption, and entails a divergence from it on the ontological level as well. Prevention, in fact, has no ontology of its own because it assumes that what it must deal with has an objectively given existence prior to its own intervention. In practice, this means that its object is given to it predefined by other formations, in whose terms and on whose terrain it must then operate. A preventive approach to social conflict might analyze it, for example, as an effect of poverty, objectively quantifiable in terms of economic and health indexes. Each index is defined by a specialist formation (economics, medicine) in relation to a norm specific to that domain and against which goals may be set and success measured (annual income, mortality rates, life expectancy, etc.). The preventive measures will then operate as a political extension of the concerned specialist domains (economic analysis extended into politics as aid and development, medicine extended into vaccination programs, etc.). They will be regulated by the specialist logics proper to those fields. Prevention has no proper object, no operational sphere of its own, and no proprietary logic. It is derivative. It is a *means* toward a given end. Because of this, preventive measures are not self-sustaining. They must be *applied*. They must be leveraged from an outside source with outside force. They are not an organizing force in their own right. They run on borrowed power.

Deterrence is like prevention except that it knows with certainty that the end it seeks will be achieved; because deterrence is responsive to a previous action (presumably by an enemy) it does not control the operational logic of the actions taken toward the ends, rather it is reactive

Brian Massumi. Potential Politics and the Primacy of Preemption. *Theory & Event* 10:2 | © 2007

Deterrence makes use of the same epistemology prevention does, in that it assumes knowability and objective measurability. However, because it starts where prevention ends, it has no margin of error. It must know with *certainty* because the threat is fully formed and ready to detonate: the enemy has the bomb and the means to deliver it. The imminence of the threat means that deterrence cannot afford to subordinate itself to objects, norms, and criteria passed on to it from other domains. If it did, its ability to respond with an immediacy proportional to the imminence of the threat would be compromised. Since it would not hold the key to its own knowledge, in the urgency of the situation it would be haunted internally by the spectre of a possible incompleteness of the knowledge coming from the outside. Since its operations would be mediated by that outside domain, neither would it hold a direct key to its own actions. Since it would be responding to causes outside its specific purview, it would not be master of its own effects.

Once the logic of MAD/deterrence takes over, it is self-propelling

Brian Massumi. Potential Politics and the Primacy of Preemption. *Theory & Event* 10:2 | © 2007

Mutually assured destruction is equilibrium-seeking. It tends toward the creation of a "balance of terror." MAD is certainty squared: to the certainty that there is objectively a threat is added the certainty that it is balanced out. The second certainty is dynamic, and requires maintenance. The assurance must be maintained by continuing to producing the conditions that bring the cause so vividly into the present. You have to keep moving into the dangerous future. You have to race forward it ever faster. You have to build more weapons, faster and better, to be sure that your systems match the lethality of your opponent's, give or take a few half-lives. The process soon becomes self-driving. The logic of mutually assured destruction becomes its own motor. It becomes self-propelling. Now that you've started, you can't very well stop.

The effectiveness of deterrence is determined by perception; therefore it doesn't work with someone like Kim Jong Il, who we perceive to be 'crazy'

Brian Massumi. Potential Politics and the Primacy of Preemption. *Theory & Event* 10:2 | © 2007

Deterrence does not work across different orders of magnitude. Only powers perceiving themselves to be of potentially equal military stature can mutually assure destruction. Neither does it work if one of the adversaries considers the other inhuman or potentially suicidal (mad in uncapitalized letters). Where the conditions of deterrence are not met, the irruption of a nuclear threat feeds a different operative logic. This is the case today with North Korea. Kim Jong Il's nuclear capabilities will never counterbalance those of the established nuclear powers. In the Western press and policy literature, he is regularly portrayed as unbalanced himself, mad enough to have the inhumanity to come to the point of willing the destruction of his own country. Prevention has failed, and neither the quantitative conditions nor psychological premise necessary for deterrence are in place. In view of this, a different operative logic must be used to understand the current nuclear situation, in North Korea and elsewhere. That logic, of course, is preemption. The superficial condition of the presence of a nuclear threat should not be mistaken for a return to a Cold War logic.

Preemption is similar to deterrence except that by necessity it functions according to conditional logic of known unknowns

Brian Massumi. Potential Politics and the Primacy of Preemption. *Theory & Event* 10:2 | © 2007

Preemption shares many characteristics with deterrence. Like deterrence, it operates in the present on a future threat. It also does this in such a way as to make that present futurity the motor of its process. The process, however, is qualitatively different. For one thing, the epistemology is unabashedly one of *uncertainty*, and not due to a simple lack of knowledge. There is uncertainty because the threat has not only not yet fully formed but, according to Bush's opening definition of preemption, it has *not yet even emerged*. In other words, the threat is still indeterminately in potential. This is an ontological premise: the nature of threat cannot be specified. It might in some circumstances involve weapons of mass destruction, but in others it will not. It might come in the form of strange white power, or then again it might be an improvised explosive device. The enemy is also unspecifiable. It might come from without, or rise up unexpectedly from within. You might expect the enemy to be a member of a certain ethnic or religious group, an Arab or a Moslem, but you can never be sure. It might turn out to be a white Briton wearing sneakers, or a Puerto Rican from the heartland of America (to mention just two well-known cases, those of John Reid and Jose Padilla). It might be an anonymous member of a cell, or the supreme leader of a "rogue" state. The lack of knowledge about the nature of the threat can never be overcome. It is part of what defines the objective conditions of the situation: threat has become proteiform and it tends to proliferate unpredictably. The situation is objectively one in which the only certainty is that threat will emerge where it is least expected. This is because what is ever-present is not a particular threat or set of threats, but the *potential* for still more threats to emerge without warning. The global situation is not so much threatening as threat *generating*: threat-o-genic. It is the world's capacity to produce *new* threats at any and every moment that defines this situation. We are in a world that has passed from what "the Architect" called the "known unknown" (uncertainty that can be analyzed and identified) to the "unknown unknown" (objective uncertainty). Objective uncertainty is as directly an ontological category as an epistemological one. The threat is known to have the ontological status of indeterminate potentiality.

Fighting terrorists also necessarily functions according to a logic of potentialities

Brian Massumi. Potential Politics and the Primacy of Preemption. *Theory & Event* 10:2 | © 2007

The situation within which the logic of preemption arises is far-from-equilibrium by nature. There is no hope for balance, so it is not even sought. The disequilibrium occurs on many levels. There is the post-humanist moral imbalance just mentioned between the human and the "inhuman." Militarily, the imbalance goes by the name of "asymmetrical warfare." This refers to the difference in order of magnitude between the adversaries' capacities for attack. The quantitative superiority of the State players in terms of the size of their armed forces, technological resources, weaponry, and funding does not necessarily give them an advantage on the ground. This is because there is another asymmetry in play that takes the form of an ontological difference. The mode of being of the "terrorist" is wed to the potential of the unspecified threat. That of the terrorist's State enemy is all-too concrete, fully actualized in a top-heavy defense structure. This gives the "terrorist" the very significant advantage of surprise. It also gives him an epistemological edge over the lumbering State formation, which is at an order of magnitude that makes it easily visible, whereas the proteiform "terrorist" is by nature imperceptible from the opposing vantage point of the State. This situation is what is commonly referred to as "imbalance of terror."

Reactive and defensive posturing with respect to terrorism will not be enough

Brian Massumi. Potential Politics and the Primacy of Preemption. *Theory & Event* 10:2 | © 2007

A defensive posture, even backed up with the best monitoring technology, is not enough. The military machinery must go on the offensive.⁵ It is not safe to wait for the enemy to make the first move. You have to move first, to make them move. You have to "flush them out." You test and prod, you move as randomly and unpredictably and ubiquitously as they do, in the hopes that you will brush close enough to provoke a response. You avoid making yourself a sitting target. You move like the enemy, in order to make the enemy move. He will be flushed out into taking some active form, and in taking active form will become detectable and thus attackable. In other words, you go on the offensive to make the enemy emerge from its state of potential and take actual shape. The exercise of your power is *incitatory*. It contributes to the actual emergence of the threat. In other words, since the threat is proliferative in any case, your best option is to help *make it proliferate more* – that is, hopefully, more on your own terms. The most effective way to fight an unspecified threat is to actively contribute to *producing* it.

The Iraq war was justified according to potential politics; the problem stems from the fact that conditional logic is always true and thus it can never be questioned

Brian Massumi. Potential Politics and the Primacy of Preemption. *Theory & Event* 10:2 | © 2007

Consider this statement from June 19, 2005: "Some may agree with my decision to remove Saddam Hussein from power, but all of us can agree that the world's terrorists have now made Iraq a central front in the war on terror." This was Bush's way of admitting that there were no weapons of mass destruction in Iraq. Objectively, his reasons for invading were false. But threat in today's world is not objective. It is potential. Potential threat calls for a potential politics. As Bush and many members of his administration have repeatedly argued, Saddam Hussein *could have* had weapons of mass destruction and that *if* he had had them, he *would have* used them. Could have, would have, if: the potential nature of the threat requires a *conditional* logic. A conditional statement cannot be wrong. First because it only asserts a potential, and second because, especially in the case of something so slippery as a potential, you can't prove the negative. Even if it wasn't *actually* there, it will always still have been there potentially: Saddam *could have* restarted his weapons projects at any moment. When you act on "could have" and "would have" you are right *by definition* as long as your reasons for acting are *not objective*. It is simply a category error to give empirical reasons for your actions with respect to potential politics. This is what the Bush administration insiders meant when they ridiculed "the reality-based community" as being hopelessly behind the times. Nowadays, your action is right by definition as long as you go politically conditional, and have a good reason for doing so.

Deterrence has a causal logic whereas preemption functions according to a logic of potentialities

Brian Massumi. Potential Politics and the Primacy of Preemption. *Theory & Event* 10:2 | © 2007

Deterrence revolved around an objective cause. Preemption revolves around a proliferative effect. Both are operative logics. The operative logic of deterrence, however, remained causal even as it displaced its cause's effect. Preemption is an *effective operative logic* rather than a causal operative logic. Since its ground is potential, there is no actual cause for it to organize itself around. It compensates for the absence of an actual cause by producing an actual effect in its place. This it makes the motor of its movement: it converts an absent or *virtual cause* really, directly into a taking-actual-effect. It does this affectively. It uses affect to effectively trigger a virtual causality.⁸ *Preemption is when the futurity of unspecified threat is affectively held in the present in a perpetual state of potential emergence(y) so that a movement of actualization may be triggered that is not only self-propelling but also effectively, indefinitely, ontologically productive, because it works from a virtual cause whose potential no single actualization exhausts*

Because preemption has necessary unknowns its logic is not limited by any preexisting social or legal limitation; it builds in the potential for the state of exception of permanent preemptive action

Brian Massumi. Potential Politics and the Primacy of Preemption. *Theory & Event* 10:2 | © 2007

Preemption's operational parameters mean that is never univocal. It operates in the element of vagueness and objective uncertainty. Due to its proliferative nature, it cannot be monolithic. Its logic cannot close in around its self-causing as the logic deterrence does. It includes an essential openness in its productive logic.⁹ It incites its adversary to take emergent form. It then strives to become as proteiform as its ever-emergent adversary can be. It is as shape-shifting as it is self-driving. It infiltrates across boundaries, sweeping up existing formations in its own transversal movement. Faced with gravity-bound formations too inertial for it to sweep up and carry off with its own operative logic, it contents itself with opening windows of opportunity to pass through. This is the case with the domestic legal and juridical structure in the US. It can't sweep that away. But it can build into that structure escape holes for itself. These take the form of formal provisions vastly expanding the power of the executive, in the person of the president in his role as commander-in-chief, to declare states of exception which suspend the normal legal course in order to enable a continued flow of preemptive action.¹⁰

Military Force not Desirable Under Realism:

Realism may dictate that states ought not attempt to make adversaries insecure.

Jeffrey W. Taliaferro, "Security Seeking under Anarchy: Defensive Realism Revisited," *International Security*, Vol. 25, No. 3. (Winter, 2000-2001), pp. 128-161.

Charles Glaser posits three ways through which making one's adversaries insecure can prove self-defeating. First, even security-seeking policies can set in motion a process that reduces the state's own military capabilities-the ability to perform particular military missions. Second, self help strategies may increase the value an adversary places on expansion as a means of self-defense, which in turn makes deterrence harder. Third, both military buildups and alliances can change the adversary's beliefs about the state's motives, thus convincing the adversary that the state is inherently more dangerous than previously thought. An adversary may conclude that a state harbors "greedy" motives-that is, a desire to expand for reasons other than security. Arms buildups may simply be a waste of a state's finite resources, because others may be able to meet or exceed its level of armament. In short, a state that initiates a military buildup to increase its security may inadvertently set in motion a chain of events that leaves it less secure.²⁶

Realism dictates that cooperation is preferable to competition.

Jeffrey W. Taliaferro, "Security Seeking under Anarchy: Defensive Realism Revisited," *International Security*, Vol. 25, No. 3. (Winter, 2000-2001), pp. 128-161.

Defensive realism faults these arguments for being incomplete. Cooperation is risky, but so is competition. States cannot be certain of the outcome of an arms race or war beforehand, and losing such a competition can jeopardize a state's security. Waltz's balance-of-power theory and Mearsheimer's offensive realism require that states evaluate the risks of cooperation and competition, but they do not explain variation in competitive or cooperative behavior.³⁵ This has implications for both foreign policy and international outcomes.

Defense is sufficient under realism; there's no need to use military force.

Jeffrey W. Taliaferro, "Security Seeking under Anarchy: Defensive Realism Revisited," *International Security*, Vol. 25, No. 3. (Winter, 2000-2001), pp. 128-161.

The defensive variants of neorealism and neoclassical realism specify the conditions under which cooperative international outcomes and less competitive state behavior, respectively, become more likely. According to offense-defense theory proponents, at the operational and tactical level, improvements in firepower (e.g., machine guns, infantry antitank weapons, surface-to-air missiles, and tactical nuclear weapons) should favor the defense because attackers are usually more vulnerable and detectable than are well-prepared defenders. At the strategic level, the anticipated high costs and risks of conquests should deter even greedy leaders.³⁶ The nuclear revolution—specifically the development of secure second-strike capabilities by the declared nuclear states—provides strong disincentives for intended war.³⁷ This does not mean that pairs of nuclear-armed states will not engage in political-military competition in third regions or limited conventional conflict short of all-out war.³⁸ Rather it suggests that intended (or premeditated) wars—wars that break out as the result of a calculated decision by at least one party to resort to the massive use of force in the pursuit of its objectives—become highly unlikely.³⁹ Conversely, if the offense dominates, then states have an incentive to adopt aggressive strategies. Similarly, states' abilities to extract resources from conquered territory influence the likelihood of international conflict. Where industrial capacity, strategic depth, or raw materials are cumulative, defensive realists would expect states to pursue expansionist policies.⁴⁰

Threat Construction:

The rhetoric of security that opposes rogue regimes or terrorists which threaten U.S. power delegitimizes these Others and justifies their utter destruction.

Schroeder, Michael J. *Bandits and Blanket Thieves, Communists and Terrorists: The Politics Of Naming Sandinistas in Nicaragua*. Third World Quarterly, Vol. 26, No. 1, pp 67 – 86, 2005

In the later era, with racist and biologised discourse no longer acceptable in the public sphere, with more rapid and globalised communications networks, and with a local or national delimitation of the struggle no longer suiting their interests, dominant groups located the conflict within an equally convenient framework, ie the broader global context of the Cold War and the fight against rogue ‘terrorist’ regimes. These differences in worldhistorical time, public discursive boundaries and rhetorical strategies notwithstanding, in both cases dominant groups and their allies concocted a series of pejorative, delegitimising names and images, strung together into totalising narratives, to legitimate their efforts to destroy emergent collectivities whose agendas ultimately threatened their own superior power.

The usage of the term ‘terrorist’ has negative implications.

Horsman, Stuart. *Themes In Official Discourses On Terrorism In Central Asia*. Third World Quarterly, Vol. 26, No. 1, pp 199 – 213, 2005

The amorphous definitions and the admissions by government officials of the relative fluidity of the terminology suggest two, not necessarily mutually exclusive, conclusions. First, there is an unwillingness or inability to define terms or apply the relevant legislation precisely. Second, the term ‘terrorist’ is deliberately broad in focus to include extreme ideological but non-violent threats, as well as, violent threats. These arbitrary and/or amorphous approaches provide political benefits to the governments. The previously mentioned Uzbekistani legislation contains ambiguous and highly subjective concepts such as ‘evil’ and ‘socially dangerous’.

Interpreting threats is arbitrary and leads to the construction of false threats.

David Campbell 1998- Security in U.S. foreign policy and the politics of identity pg. 1-2,
Professor of cultural and political geography @ University of Durham.

In insurance, according to this logic, danger (or more actually, risk) is “neither an event nor a general kind of event occurring in reality...but a specific mode of treatment of certain events capable of happening to a group of individuals.” In other words, for the technology of risk in insurance, “nothing is a risk in itself; there is no risk in reality. But on the other hand, anything can be a risk; it all depends on how one analyzes the danger, considers the event. As Kant might have put it, the category of risk is a category of the understanding; it cannot be given in sensibility or intuition.” In these terms, danger is an effect of interpretation. Danger bears no essential, necessary, or unproblematic relation to the action or event from which it is said to derive. Nothing is intrinsically more dangerous for insurance technology than anything else, except when interpreted as such.

The discourse of danger and security construct Others as false threats to be eliminated in order to legitimize the state’s identity.

David Campbell 1998- Security in U.S. foreign policy and the politics of identity pg. 50-51,
Professor of cultural and political geography @ University of Durham.

State identity is secured through discourses of danger; some low tactics are employed to serve these high ideals. These tactics are not inherent to the logic of identity, which only requires the definition of difference. But securing an ordered self and an ordered world-particularly when the field upon which this process operates is as extensive as a state-involves defining elements that stand in the way of order as forms of “otherness.” Such obstructions to order “become dirt, matter out of place, irrationality, abnormality, waste, sickness, perversity, incapacity, disorder, madness, unfreedom. They become material in need of rationalization, normalization, moralization, correction, punishment discipline, disposal, realization, etc.” In this way, the state project of security replicates the church promise of security to its citizens who, it says would otherwise face manifold dangers. The church justifies its role by guaranteeing salvation to its followers who, it says, would otherwise be destined to unredeemed death. Both the state and the church require considerable effort to maintain[s] order within and around themselves, and thereby engag[ing] in an evangelism of fear to ward off internal and external threats, succumbing in the process to the temptation to treat difference as otherness.

U.S. Hypocrisy:

The U.S. should abolish its nukes to fulfill existing contractual obligations.

David Krieger, "Ten Reasons to Abolish Nuclear Weapons," *Issues*, 2005, Nuclear Age Peace Foundation

The nuclear weapons states have made solemn promises to the international community to negotiate in good faith to achieve nuclear disarmament. The United States, Russia, Britain, France and China accepted this obligation when they signed the Non-Proliferation Treaty (NPT), and extended their promises at the 1995 NPT Review and Extension Conference and again at the 2000 NPT Review Conference. India and Pakistan, which are not signatories of the NPT, have committed themselves to abolish their nuclear arsenals if the other nuclear weapons states agree to do so. The only nuclear weapons state that has not made this promise is Israel, and surely it could be convinced to do so if the other nuclear weapons states agreed to the elimination of their nuclear arsenals. The International Court of Justice, the world's highest court, unanimously highlighted the obligation to nuclear disarmament in its 1996 Opinion: "There exists an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control." This means an obligation to reduce the world's nuclear arsenals to zero.

Eliminating the U.S.'s nuclear arsenals is key to stopping proliferation.

David Krieger, "Ten Reasons to Abolish Nuclear Weapons," *Issues*, 2005, Nuclear Age Peace Foundation

The failure of the nuclear weapons states to act to eliminate their nuclear arsenals will likely result in the proliferation of nuclear weapons to other nations. If the nuclear weapons states continue to maintain the position that nuclear weapons preserve their security, it is only reasonable that other nations with less powerful military forces, such as North Korea, will decide that their security should also be maintained by nuclear arsenals. Without substantial progress toward nuclear disarmament, the Non-Proliferation Treaty will be in jeopardy when the parties to the treaty meet for the NPT Review Conference in the year 2005.

Military Overstretch:

Military recruiting is becoming very difficult

Christine Wormuth - former principal at DFI Government Services – “THE FUTURE OF THE NATIONAL GUARD AND RESERVES THE BEYOND GOLDWATER-NICHOLS PHASE III REPORT” – 2006

<Stories of deployments overseas and long tours away from home and work for RC members fill the pages of newspapers around the country. The August 2005 combat deaths of 20 members of the 3rd Battalion, 25th Marines, a Marine Corps Reserve unit based in Brook Park, Ohio, was national news that highlighted the RC’s significant contributions – and sacrifices – in Iraq. Equipment shortfalls, both overseas and at home, are making it difficult for certain reserve components to field combat-ready units to deploy overseas and to ensure meaningful training to units returning home to the United States. The response to Hurricane Katrina sparked renewed debate over how the National Guard and Reserves should balance their missions overseas with their responsibilities at home. The current Reserve Component force is also aging, with some Service reserve components having more than 20 percent of their members within a year or two of being eligible for retirement. At the same time recruiting for the RC has become increasingly difficult. Four of the seven Service reserve components did not meet their recruiting goals in 2005, and while the recruiting picture has showed some signs of improvement in 2006, challenges clearly remain.>

Recruiting is increasingly difficult for the military

Christine Wormuth - former principal at DFI Government Services – “THE FUTURE OF THE NATIONAL GUARD AND RESERVES THE BEYOND GOLDWATER-NICHOLS PHASE III REPORT” – 2006

DoD is also struggling to find sufficient numbers of people with the right sets of skills who want to serve and stay in the military. There are a range of reasons for the difficult recruiting and retention environment. For example, large numbers of young men and women who are chronologically eligible to serve in the military do not meet the military’s physical, cognitive, or moral standards; more and more young people are going to college right out of high school; the unemployment level is relatively low; and there are many opportunities in the civilian economy that are not only financially competitive with military service, but also appear less risky.

The military budget is overstretched

Christine Wormuth - former principal at DFI Government Services – “THE FUTURE OF THE NATIONAL GUARD AND RESERVES THE BEYOND GOLDWATER-NICHOLS PHASE III REPORT” – 2006

<At the same time that the country faces a wide range of threats and a challenging set of national objectives, the U.S. military is facing a growing set of resource pressures that are taxing it as an institution in terms of how it operates, what it can do, and how much it can accomplish overseas and at home. While the current DoD spending plan projects that defense spending will exceed \$450 billion by 2008, and continue to grow in later years, the Office of Management and Budget (OMB) is struggling to address major cost growth in nondiscretionary programs like Medicare, unanticipated costs associated with Hurricane Katrina, as well as the costs of operations in Iraq, Afghanistan, and heightened security measures at home, which are now estimated to be about \$10 billion per month. Most in the defense community anticipate that these fiscal challenges will translate into downward pressure on the defense budget in the near future, and the military Services have already reportedly been directed to make major cuts in their budget estimates for the next six-year spending plan. At the same time, the costs of military personnel continue to rise. The average cost of an active duty soldier is approximately \$112,000 annually. Increasing personnel costs are becoming a serious concern for the Defense Department because, as personnel costs grow, it gets harder to find resources for modernization efforts and other important programs.>

Low recruiting trends will kill readiness jeopardizing army force structure

National Security Advisory Group, 2006,
(http://www.globalsecurity.org/military/library/report/2006/us-military_nsag-report_01252006.pdf)

<If recruiting trends do not improve over the next year, the Army, both active and reserve, will experience great difficulty fully manning its planned force structure and providing the needed rotation base for operations in Iraq and Afghanistan. Fewer than needed recruits and first-term reenlistees could result in a significant “hollowing” and imbalance in the Army. There is already a deficit of some 18,000 personnel in the Army’s junior enlisted grades. Even if it meets its recruiting and retention goals, the Army is expected to be short some 30K soldiers (not including stop loss) by the end of FY06. This will undermine unit readiness, exacerbate PERSTEMPO strains, and jeopardize the Army’s ability to populate its

planned force structure. These factors will create tremendous internal pressures to begin drawing down the level of Army forces in Iraq by next spring, whatever the conditions on the ground may be.>

The United States Army is stretched too thin – any additional deployment could risks collapse

Associated Press, January 24, 2006,
(<http://www.breitbart.com/news/2006/01/24/D8FBBNG98.html>)

<Stretched by frequent troop rotations to Iraq and Afghanistan, the Army has become a "thin green line" that could snap unless relief comes soon, according to a study for the Pentagon. Andrew Krepinevich, a retired Army officer who wrote the report under a Pentagon contract, concluded that the Army cannot sustain the pace of troop deployments to Iraq long enough to break the back of the insurgency. He also suggested that the Pentagon's decision, announced in December, to begin reducing the force in Iraq this year was driven in part by a realization that the Army was overextended. As evidence, Krepinevich points to the Army's 2005 recruiting slump _ missing its recruiting goal for the first time since 1999 _ and its decision to offer much bigger enlistment bonuses and other incentives. "You really begin to wonder just how much stress and strain there is on the Army, how much longer it can continue," he said in an interview. He added that the Army is still a highly effective fighting force and is implementing a plan that will expand the number of combat brigades available for rotations to Iraq and Afghanistan. The 136-page report represents a more sobering picture of the Army's condition than military officials offer in public. While not released publicly, a copy of the report was provided in response to an Associated Press inquiry. Illustrating his level of concern about strain on the Army, Krepinevich titled one of his report's chapters, "The Thin Green Line." He wrote that the Army is "in a race against time" to adjust to the demands of war "or risk 'breaking' the force in the form of a catastrophic decline" in recruitment and re-enlistment. Col. Lewis Boone, spokesman for Army Forces Command, which is responsible for providing troops to war commanders, said it would be "a very extreme characterization" to call the Army broken. He said his organization has been able to fulfill every request for troops that it has received from field commanders. The Krepinevich assessment is the latest in the debate over whether the wars in Iraq and Afghanistan have worn out the Army, how the strains can be eased and whether the U.S. military is too burdened to defeat other threats. Rep. John Murtha, the Pennsylvania Democrat and Vietnam veteran, created a political storm last fall when he called for an early exit from Iraq, arguing that the Army was "broken, worn out" and fueling the insurgency by its mere presence. Administration officials have hotly contested that view. George Joulwan, a retired four-star Army general and former NATO commander, agrees the Army is stretched thin. "Whether they're broken or not, I think I would say if we don't change the way we're doing business, they're in danger of being fractured and broken, and I would agree with that," Joulwan told CNN last month. >

Violence and personnel strains make a retention crisis inevitable in spite of recruiting

National Security Advisory Group, 2006,
(http://www.globalsecurity.org/military/library/report/2006/us-military_nsag-report_01252006.pdf)

The Army and Marine Corps are meeting their overall retention goals, for the moment, but some fear a major retention crisis may be looming for the Army. While the Army met its overall retention goals in 2005, the Army National Guard and Army Reserve fell short of their goals for those deciding whether to renew their commitment for the first time, creating the potential for long-term imbalances in the force. In addition, some of our most highly skilled people, like Special Operations Forces, are leaving the force to become more highly paid contractors. Furthermore, between 2001 and 2004, divorce rates and the incidence of domestic violence increased markedly, indicating the severity of the strains on Army personnel and their families. Some commanders fear that these seemingly unrelated developments could auger a retention crisis in the future.

AT: Military Force Solves Terrorism:

Military force against states do not solve terrorist threats, merely worsens them.

JAMES KRASKA - Washington College of Law, American University American University International Law Review, 2007, 22 Am. U. Int'l L. Rev. 361, 11990 words, SYMPOSIUM: THE NUCLEAR NON-PROLIFERATION TREATY: A LEGAL FRAMEWORK IN CRISIS? ESSAY: TORTS AND TERROR: RETHINKING DETERRENCE MODELS AND CATASTROPHIC TERRORIST ATTACK

The special problems associated with some counterproliferation approaches are that they may fail to identify and apply pressure to the locus of incentive that motivates terrorist attacks, so they may not be an effective deterrent. If a commercial ship carrying WMD is interdicted on the high seas, for example, it is possible - even likely - that the flag state under which the vessel is registered, or the commercial shipping company that owns the vessel, not is knowledgeable of the WMD on board the vessel. The flag state and the shipper likely are victims, so taking action only against the vessel might have little utility in deterring a state or non-state group that is illicitly smuggling the cargo. Moreover, the very nature of the apocalyptic terrorist threat means that traditional military action may achieve a tactically successful interdiction, but it in no way diminishes the threat or the likelihood of continuing attempts to smuggle and employ WMD. The reason is that military action or the threat of conventional military force cannot win the intensely ideological struggle of religiously-inspired terrorism. "Within the logic of global jihad, every action that tends to threaten the ummah strengthens the logic and increases the allure of terrorism." 43 Operational successes by the United States sow the seeds of escalating resistance. "Specifically, the more successful the United States is perceived to be, the more fighting the United States seems to constitute a sufficient politics." 44

AT: State's Responsibility to its own Citizens:

America's unique role in the world reflects its responsibility for more than just the citizens of the United States alone

Ronald J. Rychlak - Professor of Law, Associate Dean for Academic Affairs, the University of Mississippi - JUST WAR THEORY, INTERNATIONAL LAW, AND THE WAR IN IRAQ – Ave Maria Law Review – Spring 2004 – L/N

<Here America's responsibility as the world's great superpower comes in to play. We look back, as we should, with shame at our inaction (and that of the international community) while Bosnian Muslims and Rwandan Tutsis were being slaughtered. In violation of the just war framework, the cries of the innocent went unheard or unheeded. Of course, no administration can protect all Americans everywhere at every point in time. No country or international body can protect all civilians everywhere at every point in time from being preyed upon by the ruthless. That is utopian, and the just war tradition cautions against such utopianism and overreach. But it also insists that those who have the power to stop the mass killing of innocents may well be obliged to do so... .

Our great power brings with it a solemn responsibility. That responsibility isn't limited to protecting the citizens of the United States alone. ⁷⁰

Failure of a nation to consider its particular role in the world scheme is unthinkable. By its very nature, each country must consider its abilities and obligations before engaging in a military action. American leaders must (and automatically do) consider factors that would never occur to the President of Mexico or the Canadian Prime Minister. Consideration of the regime factor fits well into the just war tradition.>

AT: ACCIDENTAL USE OF NUCLEAR WEAPONS

Deterrence solves accidents

Kenneth Waltz and Scott Sagan, 1995, *The Spread of Nuclear Weapons: A Debate*

Deterrence is also a considerable guarantee against accidents, since it causes countries to take good care of their weapons, and against anonymous use, since those firing the weapons can neither know that they will be undetected nor what form of punishment detection might bring. In life, uncertainties abound. In a conventional world, they more easily lead to war because less is at stake. Even so, it is difficult to think of wars that have started by accident, even before nuclear weapons were invented. It is hard to believe that nuclear war may begin accidentally, when less frightening conventional wars have rarely done so.

Securing Current weapons is key:

Securing existing nuclear stockpiles is key to preventing proliferation – this renders the need for preemptive attack superfluous

Harold Brown, “New Nuclear Realities” *The Washington Quarterly* 31.1 (2007) 7-22

Assuring security of existing stockpiles is central. Perhaps the greatest achievement so far in limiting proliferation was the successful effort during the Clinton administration to persuade the governments of non-Russian former republics of the Soviet Union to transfer their nuclear weapons to the new Russian state. The security and economic carrots, such as the NATO Partnerships for Peace and prospects for trade, offered to obtain those actions provide a useful lesson for future attempts to limit or reverse nuclear weapons programs. Another program that has been at least partially successful in reducing proliferation risks is the Nunn-Lugar Cooperative Threat Reduction program, aimed at removing or safeguarding fissile materials that are not parts of weapons and improving the security of weapons stockpiles themselves. Vertically integrated nuclear power programs, which include fuel production and reprocessing, have the potential to provide what is needed to acquire the weapons-grade fissile material. To respond to nations claiming to need nuclear-generated electricity, it would be possible to do uranium enrichment and fuel reprocessing at internationally controlled facilities. Various other arrangements, if agreement can be reached among the states that possess or seek the relevant capabilities, would inhibit the acquisition of weapons-grade fissile material by new aspirants. Among others, these include agreements to stop producing weapons-grade uranium, to stop separating plutonium produced in reactors from the accompanying fission products for use in breeder-reactor cycles, and to control the production and operation of high-technology centrifuges that are the easiest uranium separators to hide.

U.S. economic incentives Alternative:

Using economic incentives can provide a non military method of deterring proliferation

Harold Brown, "New Nuclear Realities" *The Washington Quarterly* 31.1 (2007) 7-22

A third approach is to add carrots, such as trade or financial incentives, or to use them rather than sticks. For example, if one of North Korea's reasons for a nuclear program is to trade it for material benefits, carrots could work, although extortionists tend to retain their threats so as to produce an annuity. If the most important reason for nuclear weapons programs is the belief that they improve national security, as is likely the case, the best carrot is an alternative provision of security that the recipient sees as preferable. This may be difficult to provide, but its feasibility can be determined only by trying to negotiate such a deal. In effect, that is what the Bush administration finally is attempting to do in the six-nation talks with North Korea, six years after jettisoning the Clinton administration's earlier incentives-based approach that had produced a freeze of North Korean plutonium extraction. A corresponding approach with Iran is worth trying. What would be required in the way of trade, financial, and above all security commitments (perhaps an assurance of no regime overthrow) would differ in each of those and other cases. Moreover, whether such a deal could be reached on terms acceptable to the United States is unclear. Iran's idea of "respect for Iran," as Kenneth Pollack has suggested, may involve more than any U.S. administration could stomach,⁵ but the workability of such an approach will become clear only if the United States gives it a try.

North Korea:

Threatening North Korea could impel them to sell nuclear technology

Sheena Chestnut, Illicit Activity and Proliferation North Korean Smuggling Networks
International Security 32.1 (2007) 80-111

North Korean government officials have not consistently rejected the option of nuclear export. In April 2004 President of the Supreme People's Assembly Presidium Kim Yong-nam told visiting journalist Selig Harrison, "We make a clear distinction between missiles and nuclear material. We're entitled to sell missiles to earn foreign exchange. But in regard to nuclear materials, our policy past, present, and future is that we would never allow such transfers to al-Qaeda or anyone else." Foreign Minister Paik Nam-soon added, "We denounce al-Qaeda, we oppose all forms of terrorism, and we will never transfer our nuclear material to others."⁸¹ As the nuclear stalemate continued, however, the DPRK shifted. In 2005 Harrison reported that Vice Foreign Minister Kim Gye-gwan had warned, "[The United States] should consider the danger that we could transfer nuclear weapons to terrorists, that we have the ability to do so." Kim said the regime had no plans to transfer but would not rule it out "if the United States drives [us] into a corner."⁸² James Kelly, the U.S. State Department's assistant secretary for East Asian and Pacific Affairs, testified in July 2004 that a similar threat had been made during trilateral talks in April **[End Page 99]** 2003.⁸³ And although the DPRK told a visiting delegation after its nuclear test that it would not give nuclear weapons to terrorists,⁸⁴ the February 13 agreement contained no mention of the potential for DPRK nuclear export.⁸⁵ Although these assertions may be an exercise in brinkmanship, dismissing them entirely would be irresponsible. In particular, the DPRK's 2003 withdrawal from the Nonproliferation Treaty (NPT) may convince its leadership that nuclear material and components, like missiles, are now justifiable export commodities.⁸⁶ Notably, North Korea has denied any involvement in state-sponsored illicit activity, while explicitly threatening or asserting a right to conduct a nuclear transfer. The implicit recognition of the norm against criminal dealings contained in DPRK rhetoric, and the possible lifting of normative constraints on nuclear export after North Korea's NPT withdrawal, should heighten concern that Pyongyang might consider a sale a viable option.