

BEZPEČNOSTNÍ PROBLÉMY SOUČASNOSTI

(Reader)

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Obor: Teritoriální studia

Uvedené materiály jsou určeny výlučně k vnitřní potřebě distančního studia na IMS UK FSV

Charakteristika studijního předmětu

(nutno vyplnit pro všechny povinné a povinně volitelné předměty)

Název studijního předmětu: Bezpečnostní problémy současnosti

Typ studijního předmětu: povinný
(povinný, povinně volitelný)

Formy výuky studijního předmětu: přednáška, samostatná práce
(přednáška, cvičení, seminář, kurz, praxe, stáž, laboratorní práce, exkurze, samostatná práce, konzultace)

Rozsah studijního předmětu: 3/0
(uvádí se rozsah studijního předmětu v hodinách týdně, resp. v hodinách celkem)

Rozsah odborné praxe (v týdnech): 0
(u profesního bakalářského oboru též přehled pracovišť, kde se praxe bude konat, informace jejím výstupu a organizaci)

Kombinovaná/distanční forma studia: kombinovaná, celková hodinová dotace 36 hodin, z toho 3 hodiny přímá výuka, 24 hodin samostudium, 9 hodin kontrola samostudia a konzultace

Formy kontroly studia předmětu:
(zkouška, zápočet, klasifikovaný zápočet, kolokvium, klauzurní práce, rozdílová zkouška, souborná zkouška)

Počet kreditů: 8

Vyučující: Tomáš Weiss

Stručná anotace předmětu: Kurs se zabývá bezpečnostní situací Evropy, Severní Ameriky a post-sovětského prostoru. Důraz bude kladen na nové bezpečnostní hrozby, formy a reformy mezinárodní spolupráce k zajištění bezpečnosti a problémy, které státy po skončení studené války musejí intenzivně řešit.

Studijní literatura (celkem 639 s.):
(Základní studijní literatura, případně studijní pomůcky v členění na povinnou a doporučenou. U každé položky uvést: autora, název, rok vydání, vydavatele, pořadí, rozsah, ISBN.)

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5. Nefunkční státy (54 s.):

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A SECURE EUROPE IN A BETTER WORLD

EUROPEAN SECURITY STRATEGY

Brussels, 12 December 2003

Introduction

Europe has never been so prosperous, so secure nor so free. The violence of the first half of the 20th Century has given way to a period of peace and stability unprecedented in European history.

The creation of the European Union has been central to this development. It has transformed the relations between our states, and the lives of our citizens. European countries are committed to dealing peacefully with disputes and to co-operating through common institutions. Over this period, the progressive spread of the rule of law and democracy has seen authoritarian regimes change into secure, stable and dynamic democracies. Successive enlargements are making a reality of the vision of a united and peaceful continent.

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The United States has played a critical role in European integration and European security, in particular through NATO. The end of the Cold War has left the United States in a dominant position as a military actor. However, no single country is able

to tackle today's complex problems on its own.

Europe still faces security threats and challenges. The outbreak of conflict in the Balkans was a reminder that war has not disappeared from our continent. Over the last decade, no region of the world has been untouched by armed conflict. Most of these conflicts have been within rather than between states, and most of the victims have been civilians.

As a union of 25 states with over 450 million people producing a quarter of the world's Gross National Product (GNP), and with a wide range of instruments at its disposal, the European Union is inevitably a global player. In the last decade European forces have been deployed abroad to

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places as distant as Afghanistan, East Timor and the DRC. The increasing convergence of European interests and the strengthening of mutual solidarity of the EU makes us a more credible and effective actor. Europe should be ready to share in the responsibility for global security and in building a better world.

I. THE SECURITY ENVIRONMENT: GLOBAL CHALLENGES AND KEY THREATS

Global Challenges

The post Cold War environment is one of increasingly open borders in which the internal and external aspects of security are indissolubly linked. Flows of trade and investment, the development of technology and the spread of democracy have brought freedom and prosperity to many people. Others have perceived globalisation as a cause of frustration and injustice. These developments have also increased the scope for non-state groups to play a part in international affairs. And they have increased European dependence – and so vulnerability – on an interconnected infrastructure in transport, energy, information and other fields.

Since 1990, almost 4 million people have died in wars, 90% of them civilians. Over 18 million people world-wide have left their homes as a result of conflict.

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In much of the developing world, poverty and disease cause untold suffering and give rise to pressing security concerns. Almost 3 billion people, half the world's population, live on less than 2 Euros a day. 45 million die every year of hunger and malnutrition. AIDS is now

one of the most devastating pandemics in human history and contributes to the breakdown of societies. New diseases can spread rapidly and become global threats. Sub-Saharan Africa is poorer now than it was 10 years ago. In many cases, economic failure is linked to political problems and violent conflict.

Security is a precondition of development. Conflict not only destroys infrastructure, including social infrastructure; it also encourages criminality, deters investment and makes normal economic activity impossible. A number of countries and regions are caught in a cycle of conflict, insecurity and poverty.

Competition for natural resources - notably water - which will be aggravated by global warming over the next decades, is likely to create further turbulence and migratory movements in various regions.

Energy dependence is a special concern for Europe. Europe is the world's largest importer of oil and gas. Imports account for about 50% of energy consumption today. This will rise to 70% in 2030. Most energy imports come from the Gulf, Russia and North Africa.

Key Threats

Large-scale aggression against any Member State is now improbable. Instead, Europe faces new threats which are more diverse, less visible and less predictable.

Terrorism: Terrorism puts lives at risk; it imposes large costs; it seeks to undermine the openness and tolerance of our societies, and it poses a growing strategic threat to the whole of Europe. Increasingly, terrorist movements are well-resourced, connected by electronic networks, and are willing to use unlimited violence to cause massive casualties.

The most recent wave of terrorism is global in its scope and is linked to violent religious extremism. It arises out of complex causes. These include the pressures of modernisation, cultural, social and political crises, and the alienation of young people living in foreign societies. This phenomenon is also a part of our own society.

Europe is both a target and a base for such terrorism: European countries are targets and have been attacked. Logistical bases for Al Qaeda cells have been uncovered in the UK, Italy, Germany, Spain and Belgium. Concerted European action is indispensable.

Proliferation of Weapons of Mass Destruction is potentially the greatest threat to our security. The international treaty regimes and export control arrangements have slowed the spread of WMD and delivery systems. We are now, however, entering a new and dangerous period that raises the possibility of a WMD arms race, especially in the Middle East. Advances in the biological sciences may increase the potency of biological weapons in the coming

The last use of WMD was by the Aum terrorist sect in the Tokyo underground in 1995, using sarin gas. 12 people were killed and several thousand injured. Two years earlier, Aum had sprayed anthrax spores on a Tokyo street.

years; attacks with chemical and radiological materials are also a serious possibility. The spread of missile technology adds a further element of instability and could put Europe at increasing risk.

The most frightening scenario is one in which terrorist groups acquire weapons of mass destruction. In this event, a small group would be able to inflict damage on a scale previously possible only for States and armies.

Regional Conflicts: Problems such as those in Kashmir, the Great Lakes Region and the Korean Peninsula impact on European interests directly and indirectly, as do conflicts nearer to home, above all in the Middle East. Violent or frozen conflicts, which also persist on our borders, threaten regional stability. They destroy human lives and social and physical infrastructures; they threaten minorities, fundamental freedoms and human rights. Conflict can lead to extremism, terrorism and state failure; it provides opportunities for organised crime. Regional insecurity can fuel the demand for WMD. The most practical way to tackle the often elusive new threats will sometimes be to deal with the older problems of regional conflict.

State Failure: Bad governance – corruption, abuse of power, weak institutions and lack of accountability - and civil conflict corrode States from within. In some cases, this has brought about the collapse of State institutions. Somalia, Liberia and Afghanistan under the Taliban are the best known recent examples. Collapse of the State can be associated with obvious threats, such as organised crime or terrorism. State failure is an alarming phenomenon, that undermines global governance, and adds to regional instability.

Organised Crime: Europe is a prime target for organised crime. This internal threat to our security has an important external dimension: cross-border trafficking in drugs, women, illegal migrants and weapons accounts for a large part of the activities of criminal gangs. It can have links with terrorism.

Such criminal activities are often associated with weak or failing states. Revenues from drugs have fuelled the weakening of state structures in several drug-producing countries. Revenues from trade in gemstones, timber and small arms, fuel conflict in other parts of the world. All these activities undermine both the rule of law and social order itself. In extreme cases, organised crime can come

to dominate the state. 90% of the heroin in Europe comes from poppies grown in Afghanistan – where the drugs trade pays for private armies. Most of it is distributed through Balkan criminal networks which are also responsible for some 200,000 of the 700,000 women victims of the sex trade world wide. A new dimension to organised crime which will merit further attention is the growth in maritime piracy.

Taking these different elements together – terrorism committed to maximum violence, the availability of weapons of mass destruction, organised crime, the weakening of the state system and the privatisation of force – we could be confronted with a very radical threat indeed.

II. STRATEGIC OBJECTIVES

We live in a world that holds brighter prospects but also greater threats than we have known. The future will depend partly on our actions. We need both to think globally and to act locally. To defend its security and to promote its values, the EU has three strategic objectives:

Addressing the Threats

The European Union has been active in tackling the key threats.

- It has responded after 11 September with measures that included the adoption of a European Arrest Warrant, steps to attack terrorist financing and an agreement on mutual legal assistance with the U.S.A. The EU continues to develop cooperation in this area and to improve its defences.
- It has pursued policies against proliferation over many years. The Union has just agreed a further programme of action which foresees steps to strengthen the International Atomic Energy Agency, measures to tighten export controls and to deal with illegal shipments and illicit procurement. The EU is committed to achieving universal adherence to multilateral treaty regimes, as well as to strengthening the treaties and their verification provisions.
- The European Union and Member States have intervened to help deal with regional conflicts and to put failed states back on their feet, including in the Balkans, Afghanistan, and in the DRC. Restoring good government to the Balkans, fostering democracy and enabling the authorities there to tackle organised crime is one of the most effective ways of dealing with organised crime within the EU.

In an era of globalisation, distant threats may be as much a concern as those that are near at hand. Nuclear activities in North Korea, nuclear risks in South Asia, and proliferation in the Middle East are all of concern to Europe.

Terrorists and criminals are now able to operate world-wide: their activities in central or south-

east Asia may be a threat to European countries or their citizens. Meanwhile, global

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communication increases awareness in Europe of regional conflicts or humanitarian tragedies anywhere in the world.

Our traditional concept of self- defence – up to and including the Cold War – was based on the threat of invasion. With the new threats, the first line of defence will often be abroad. The new threats are dynamic. The risks of proliferation grow over time; left alone, terrorist networks will become ever more dangerous. State failure and organised crime spread if they are neglected – as we have seen in West Africa. This implies that we should be ready to act before a crisis occurs. Conflict prevention and threat prevention cannot start too early.

In contrast to the massive visible threat in the Cold War, none of the new threats is purely military; nor can any be tackled by purely military means. Each requires a mixture of instruments. Proliferation may be contained through export controls and attacked through political, economic and other pressures while the underlying political causes are also tackled. Dealing with terrorism may require a mixture of intelligence, police, judicial, military and other means. In failed states, military instruments may be needed to restore order, humanitarian means to tackle the immediate crisis. Regional conflicts need political solutions but military assets and effective policing may be needed in the post conflict phase. Economic instruments serve reconstruction, and civilian crisis management helps restore civil government. The European Union is particularly well equipped to respond to such multi-faceted situations.

Building Security in our Neighbourhood

Even in an era of globalisation, geography is still important. It is in the European interest that countries on our borders are well-governed. Neighbours who are engaged in violent conflict, weak

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states where organised crime flourishes, dysfunctional societies or exploding population growth on its borders all pose problems for Europe.

The integration of acceding states increases our security but also brings the EU closer to troubled areas. Our task is to promote a ring of well governed countries to the East of the European Union and on the borders of the Mediterranean with whom we can enjoy close and cooperative relations.

The importance of this is best illustrated in the Balkans. Through our concerted efforts with the US, Russia, NATO and other international partners, the stability of the region is no longer threatened by the outbreak of major conflict. The credibility of our foreign policy depends on the consolidation of our achievements there. The European perspective offers both a strategic objective and an incentive for reform.

It is not in our interest that enlargement should create new dividing lines in Europe. We need to extend the benefits of economic and political cooperation to our neighbours in the East while tackling political problems there. We should now take a stronger and more active interest in the problems of the Southern Caucasus, which will in due course also be a neighbouring region.

Resolution of the Arab/Israeli conflict is a strategic priority for Europe. Without this, there will be little chance of dealing with other problems in the Middle East. The European Union must remain engaged and ready to commit resources to the problem until it is solved. The two state solution - which Europe has long supported- is now widely accepted. Implementing it will require a united and cooperative effort by the European Union, the United States, the United Nations and Russia, and the countries of the region, but above all by the Israelis and the Palestinians themselves.

The Mediterranean area generally continues to undergo serious problems of economic stagnation, social unrest and unresolved conflicts. The European Union's interests require a continued engagement with Mediterranean partners, through more effective economic, security and cultural cooperation in the framework of the Barcelona Process. A broader engagement with the Arab World should also be considered.

AN INTERNATIONAL ORDER BASED ON EFFECTIVE MULTILATERALISM

In a world of global threats, global markets and global media, our security and prosperity increasingly depend on an effective multilateral system. The development of a stronger international society, well functioning international institutions and a rule-based international order is our objective.

We are committed to upholding and developing International Law. The fundamental framework for international relations is the United Nations Charter. The United Nations Security Council has the primary responsibility for the maintenance of international peace and security. Strengthening the United Nations, equipping it to fulfil its responsibilities and to act effectively, is a European priority.

Our security and prosperity increasingly depend on an effective multilateral system. We are committed to upholding and developing International Law.
The fundamental framework for international relations is the United Nations Charter.

We want international organisations, regimes and treaties to be effective in confronting threats to international peace and security, and must therefore be ready to act when their rules are broken.

Key institutions in the international system, such as the World Trade Organisation (WTO) and the International Financial Institutions, have extended their membership. China has joined the WTO and Russia is negotiating its entry. It should be an objective for us to widen the membership of such bodies while maintaining their high standards.

One of the core elements of the international system is the transatlantic relationship. This is not only in our bilateral interest but strengthens the international community as a whole. NATO is an important expression of this relationship.

Regional organisations also strengthen global governance. For the European Union, the strength and effectiveness of the OSCE and the Council of Europe has a particular significance. Other regional organisations such as ASEAN, MERCOSUR and the African Union make an important contribution to a more orderly world.

It is a condition of a rule-based international order that law evolves in response to developments such as proliferation, terrorism and global warming. We have an interest in further developing existing institutions such as the World Trade Organisation and in supporting new ones such as the International Criminal Court. Our own experience in Europe demonstrates that security can be increased through confidence building and arms control regimes. Such instruments can also make an important contribution to security and stability in our neighbourhood and beyond.

The quality of international society depends on the quality of the governments that are its foundation. The best protection for our security is a world of well-governed democratic states. Spreading good governance, supporting social and political reform, dealing with corruption and abuse of power, establishing the rule of law and protecting human rights are the best means of strengthening the international order.

Trade and development policies can be powerful tools for promoting reform. As the world's largest provider of official assistance and its largest trading entity, the European Union and its Member States are well placed to pursue these goals.

Contributing to better governance through assistance programmes, conditionality and targeted trade measures remains an important feature in our policy that we should further reinforce. A world seen as offering justice and opportunity for everyone will be more secure for the European Union and its citizens.

A number of countries have placed themselves outside the bounds of international society. Some have sought isolation; others persistently violate international norms. It is desirable that such countries should rejoin the international community, and the EU should be ready to provide assistance. Those who are unwilling to do so should understand that there is a price to be paid, including in their relationship with the European Union.

III. POLICY IMPLICATIONS FOR EUROPE

The European Union has made progress towards a coherent foreign policy and effective crisis management. We have instruments in place that can be used effectively, as we have demonstrated in the Balkans and beyond. But if we are to make a contribution that matches our potential, we need to be more active, more coherent and more capable. And we need to work with others.

We need to develop a strategic culture that fosters early, rapid and when necessary, robust intervention.

More active in pursuing our strategic objectives. This applies to the full spectrum of instruments for crisis management and conflict prevention at our disposal, including political, diplomatic, military and civilian, trade and development activities. Active policies are needed to counter the new dynamic threats. We need to develop a strategic culture that fosters early, rapid, and when necessary, robust intervention.

As a Union of 25 members, spending more than 160 billion Euros on defence, we should be able to sustain several operations simultaneously. We could add particular value by developing operations involving both military and civilian capabilities.

The EU should support the United Nations as it responds to threats to international peace and security. The EU is committed to reinforcing its cooperation with the UN to assist countries emerging from conflicts, and to enhancing its support for the UN in short-term crisis management situations.

We need to be able to act before countries around us deteriorate, when signs of proliferation are detected, and before humanitarian emergencies arise. Preventive engagement can avoid more serious problems in the future. A European Union which takes greater responsibility and which is more active will be one which carries greater political weight.

More Capable. A more capable Europe is within our grasp, though it will take time to realise our full potential. Actions underway – notably the establishment of a defence agency – take us in the right direction.

To transform our militaries into more flexible, mobile forces, and to enable them to address the new threats, more resources for defence and more effective use of resources are necessary.

Systematic use of pooled and shared assets would reduce duplications, overheads and, in the medium-term, increase capabilities.

In almost every major intervention, military efficiency has been followed by civilian chaos. We need greater capacity to bring all necessary civilian resources to bear in crisis and post crisis situations.

Stronger diplomatic capability: we need a system that combines the resources of Member States with those of EU institutions. Dealing with problems that are more distant and more foreign requires better understanding and communication.

Common threat assessments are the best basis for common actions. This requires improved sharing of intelligence among Member States and with partners.

As we increase capabilities in the different areas, we should think in terms of a wider spectrum of missions. This might include joint disarmament operations, support for third countries in combating terrorism and security sector reform. The last of these would be part of broader institution building.

The EU-NATO permanent arrangements, in particular Berlin Plus, enhance the operational capability of the EU and provide the framework for the strategic partnership between the two organisations in crisis management. This reflects our common determination to tackle the challenges of the new century.

More Coherent. The point of the Common Foreign and Security Policy and European Security and Defence Policy is that we are stronger when we act together. Over recent years we have created a number of different instruments, each of which has its own structure and rationale.

The challenge now is to bring together the different instruments and capabilities: European assistance programmes and the European Development Fund, military and civilian capabilities from Member States and other instruments. All of these can have an impact on our security and on that of third countries. Security is the first condition for development.

Diplomatic efforts, development, trade and environmental policies, should follow the same agenda. In a crisis there is no substitute for unity of command.

Better co-ordination between external action and Justice and Home Affairs policies is crucial in the fight both against terrorism and organised crime.

Greater coherence is needed not only among EU instruments but also embracing the external activities of the individual member states.

Coherent policies are also needed regionally, especially in dealing with conflict. Problems are rarely solved on a single country basis, or without regional support, as in different ways experience in both the Balkans and West Africa shows.

Working with partners There are few if any problems we can deal with on our own. The threats described above are common threats, shared with all our closest partners. International cooperation is a necessity. We need to pursue our objectives both through multilateral cooperation in international organisations and through partnerships with key actors.

Acting together, the European Union and the United States can be a formidable force for good in the world.

The transatlantic relationship is irreplaceable. Acting together, the European Union and the United States can be a formidable force for good in the world. Our aim should be an effective and balanced partnership with the USA. This is an additional reason for the EU to build up further its capabilities and increase its coherence.

We should continue to work for closer relations with Russia, a major factor in our security and prosperity. Respect for common values will reinforce progress towards a strategic partnership.

Our history, geography and cultural ties give us links with every part of the world: our neighbours in the Middle East, our partners in Africa, in Latin America, and in Asia. These relationships are an important asset to build on. In particular we should look to develop strategic partnerships, with Japan, China, Canada and India as well as with all those who share our goals and values, and are prepared to act in their support.

Conclusion

This is a world of new dangers but also of new opportunities. The European Union has the potential to make a major contribution, both in dealing with the threats and in helping realise the opportunities. An active and capable European Union would make an impact on a global scale. In doing so, it would contribute to an effective multilateral system leading to a fairer, safer and more united world.

A New Security Landscape: the End of the Post-Cold War Era

FRANÇOIS HEISBOURG

Against a backdrop of fundamental shifts in the relationships between the United States and its European and Asian allies, the terrorist attacks of September 2001 have forced a fundamental re-appraisal of global security issues. In this article, Professor François Heisbourg, chairman of the council of the International Institute of Strategic Studies in London, examines various facets of the current global security situation, including increasing pressures and tensions in the Middle East, the danger of a reversal of fortunes for non-proliferation initiatives, and the rise of hyper-terrorism. He then examines the implications of these new security challenges for individual nations—notably the blurring of the distinction between internal and external security—and for existing international alliances, and proceeds to discuss the way in which nations' responses to these new realities will shape international relations in the years to come.

The security landscape faced by the United States and its European and Asian allies is undergoing basic change which is bringing to a close both the legacy of the Cold War and the transition period of the 1990s. The scope and the depth of this transformation are due to the fact that basic elements of this landscape are shifting simultaneously:

- The threat situation is characterized *inter alia* by the ability of non-state actors to wreak mass destruction. What was a risk prior to 9/11 is now a clear and present danger which challenges the traditional categories of internal security and military defense;
- The nature and contents of the relationships between the United States and its European and Asian allies are undergoing a deep revision, which puts into question both the transatlantic institutions and the political and strategic rationale which has underpinned them for more than sixty years;

These categories of change naturally interact with each other, and are also heavily influenced by other factors, both external (for example, Russia, China, and the Middle East) and internal (for example, demographics, most notably in the form of ageing populations).

Continuities and changes in inter-state security risks

If one confines oneself to conflict between states, three major sources of insecurity represent ever clearer and more present dangers:

- The exacerbation of contradictions in the traditional Maghreb-to-Pakistan “arc of crisis”;
- The spread of nuclear weapons and the attendant risk of a breakdown of the existing non-proliferation regime, together with a similar evolution in the biological arena;
- The possible use of nuclear weapons in Asia, and its consequences for Europe.

The “arc of crisis” under strain

In the late 1970s, the expression “arc of crisis” was coined by Zbigniew Brzezinski (among others) to characterize the combination of political Islam (such as the Iranian revolution of 1979), poor (sometimes atrocious) governance, the Israeli-Arab confrontation, and the control of much of the world’s oil.

Moreover, the level of crisis in the region is set to rise with the increase in social, economic, political, and military tensions and contradictions. The associated risks call for greater European and Asian involvement. These risks include:

- The runaway demography of the “*états-rentiers*” of the Persian Gulf, and notably of Saudi Arabia, means that “performance legitimacy” has decreased sharply, while democratic legitimacy is non-existent in many states. Although countries such as Tunisia, Algeria, and Iran are now entering into demographic transition, with rapidly falling birth rates, such is not the case in the Gulf states, where most of the oil lies. Internal stability can only suffer as a result, particularly when the economies of the region appear to be, with few exceptions (most prominently Dubai and Qatar), incapable of benefiting from the forces of globalization.
- The weakening of broad-based political Islam¹ and the rise of more narrowly based but ultra-violent—even apocalyptic—radical minorities such as the GIA and the Salafists in Algeria, and al-Qaeda and its affiliates in Saudi Arabia.
- The incentive of relatively poorer countries to go directly to the “bottom line” in terms of military power: for a country like Iran, the acquisition of ballistic missiles and nuclear weapons may be a cheaper alternative to a replication of the Shah’s policy of acquiring enormously expensive arrays of conventional combat aircraft, helicopters, and armored vehicles. Proliferation is an equalizer of power.

All these trends are unfolding against the backdrop of a region in which many states do not appear to have struck deep roots in terms of national identity: ideocratic dictatorships such as Syria, Iraq, Libya, and Saudi Arabia have been in existence for a shorter time-span than the total lifetime of the USSR. This post-Ottoman order is inherently fragile. Naturally, outside action—such as a US military invasion of Iraq—could precipitate the violent collapse of these legacy states whose only success has been in the ruthless suppression of civil society. In the absence of the sort of democratic or liberal forces which existed in the European satellite states of the USSR (and even to some extent within the USSR itself), change in the greater Middle East will on average be considerably more violent and war-generating than was the case with the collapse of the former Soviet empire.

In this context, it is worth recalling that the world's dependence on Middle Eastern oil is not going to diminish in the near future. Today, as in the previous quarter of a century, more than half of the world's oil exports come from the Gulf states. Furthermore, there is approximate parity in the levels of American, European, and East Asian dependency in terms of oil imports, with each of the three regions importing approximately nine million barrels a day (Mbd). China's and India's rising oil imports will increase the role of the Middle East as the world's petrol station.

***Proliferation of weapons of mass destruction (WMD):
from comparative success to prospective breakdown***

If one compares the situation surrounding the proliferation of weapons of mass destruction today with that which prevailed a quarter of a century ago, one is struck by the relatively high degree of success achieved through non-proliferation efforts, particularly when contrasted with previously prevailing forecasts.²

In 2002 the list of states possessing (or close to possessing) nuclear weapons was shorter than it was in 1975. India, Pakistan, and Israel were already on the list. Brazil, Argentina, South Africa (which produced six Hiroshima-type bombs during the 1980s), Taiwan and South Korea have dropped off the list, while North Korea, Iraq, and possibly Iran have been added to it, at least for the time being. Furthermore, the Nuclear Non-Proliferation Treaty (NPT) has become a quasi-universal norm, with only four non-signatory states (India, Israel, Pakistan, and Cuba) out of 191. This is in marked contrast to the situation that existed a quarter of a century ago.³ In the field of chemical weapons (CW), the 1995 treaty banning CW has laid the ground for the chemical disarmament of existing stockpiles (notably in Russia, the US, India, and South Korea). Ballistic missile proliferation is occurring in the three *de facto* nuclear states (Israel, India, and Pakistan) as well as in Iran and North Korea. However, during the 1970s and the 1980s, Scud, Frog, and SS-21 missiles were exported by the USSR to over 20 countries (ranging from Algeria to Vietnam), while China exported 2500 km-range CSS-2s to Saudi Arabia. Missile proliferation on this scale is no longer occurring.

However, this comparison does not provide a good indication of what is in store in the future. First, and most importantly, in Asia nuclear proliferation is on the brink of becoming the norm rather than the exception. Alongside the traditional Maghreb-to-Pakistan arc of crisis, there is an emerging nuclear arc of crisis extending from Israel to Northeast Asia; two of the five official nuclear powers (Russia and China), the three *de facto* nuclear powers (Israel, India, and Pakistan), the two nuclear “wannabes” (Iraq and North Korea, who both violated the NPT in their quest for nuclear power), and a suspected candidate for nuclear power (Iran) are all located in Asia. Countries which have renounced the nuclear option, either willingly (Japan) or under outside pressure (South Korea and Taiwan) could feel compelled to revisit the issue. And if the international NPT regime breaks down in Asia, it will break down elsewhere as well. This is one of the reasons why Iran—and therefore Europe’s relationship with that country—has become pivotal. Up until now, the non-proliferation regime has held (albeit just barely in Asia), with Iraq being forcefully deprived of its nuclear program and with North Korea having been induced to put its own ambitions on hold. The three *de facto* nuclear powers could be considered to have not violated the norm, since they had never subscribed to it in the first place. However, if Iran—a fully-fledged NPT member—goes nuclear without having been convinced to do otherwise by effective international action, then the whole NPT edifice is likely to come crashing down. The recent revelations regarding North Korea’s gas centrifuge uranium enrichment program are particularly disturbing in this context, all the more so since there is reason to believe that North Korea and Pakistan have engaged in two-way technology transfers in both the nuclear and missile arenas. The possession of nuclear weapons by all powers capable of acquiring them would then become commonplace. This would have serious consequences, not only for Asia but also for Europe, most of whose countries have foregone the nuclear military option.⁴

In parallel, research and production of biological weapons (BW), although renounced by 144⁵ members of the international community under the 1972 Biological Weapons Treaty, is unfettered by any verification regime. As is now known, the treaty was massively and deliberately violated by the USSR from the day it was signed.⁶ Iraq has also done so from the late 1980s onwards. It cannot be assumed that certain other countries (as yet unrevealed) have been any more respectful of the BW ban.

Naturally, the combination of enhanced WMD proliferation and the aggravation of tensions in the greater Middle East represents a particular challenge to the European nations. Their armed forces and defense strategies are not currently adapted to such an evolution, with the limited exception of the deterrence capability provided by the French and British nuclear forces.

In the case of all these types of weaponry (nuclear weapons included), proliferation carries with it an increased risk of their use. Doubtless there is some reassurance to be drawn from the strength of the factors which explain why nuclear weapons have not been used since 1945. However, the increase in the number of nuclear actors increases the inherent generic risks of their use (whether accidental, inadvertent, or deliberate) in geometrical progression; moreover, the specific danger of the use of nuclear weapons is greater in certain circumstances than in others. The India-Pakistan situation is in most ways (strategically, politically, and technically)⁷ more conducive to the use of nuclear weapons than was the East-West confrontation during the Cold War. The European and Asian allies all need to reflect on the consequences that the breaking of the nuclear taboo would have on international security, particularly in terms of their own strategic postures.

Hyper-terrorism: the acquisition of weapons of mass destruction by non-state actors

A new level of threat by non-deterrable actors

The preceding security risks have been viewed entirely through the prism of traditional state-to-state interactions. Since 11 September 2001, non-state actors have demonstrated the will and the capability to wreak mass destruction (even though the tools used to obliterate two skyscrapers containing in excess of 60,000 workspaces were purely conventional). No doubt the risk had already been present, with operations such as the first al-Qaeda attack against the Twin Towers in 1993, the attempt by Algerian terrorists to crash an Air France Airbus into the Eiffel Tower in 1994, and the nerve gas attacks by the Aum Shinrikyo sect in Matsumoto and Tokyo in the mid-1990s. However, the threat became real with the 9/11 attacks, followed by the separate anthrax attacks a few weeks later (which were apparently intended to disrupt rather than destroy).

Naturally, this form of empowerment of non-state actors does not exist on a purely stand-alone basis: it interacts with the strategies of state actors, from the Taliban of Afghanistan to the adversaries in the India-Pakistan confrontation—analysis of which can no longer be carried out purely in terms of state-to-state relations, but must now also integrate the strategy of al-Qaeda and its regional affiliates.

However, the hyper-terrorist threat is highly specific in terms of its consequences for security policy.

Non-state actors attempting to wage mass destruction terrorism, such as Aum in Japan or al-Qaeda and its affiliates, cannot be countered using the same set of policies as those which apply to antagonists controlling a state, along with its territory and population. Thus, the following policy tools are essentially inoperative:

- Deterrence, through the possible use of weapons of mass destruction. Nuclear deterrence is irrelevant against groups whose operating bases are often in the heart of the targeted country;
- Containment of the threat by the deployment of military forces, as in Central Europe during the Cold War;
- Diplomatic and strategic balancing of the threat by a third power.

In the absence of such options, the tools available to policymakers are essentially the following:

- Detection of potential and actual perpetration, through accurate and relevant intelligence and analysis;
- Prevention, including upstream action (addressing so-called root causes by economic, political, and ideological means);
- Pre-emption, entailing operations (by police or military forces) against a group (and those who aid and abet it) while it is still preparing for action;
- Interception and repression of the perpetrators before or after their “hit”;
- Damage limitation, through timely and effective “hardening” of the terrorists’ objective;
- Damage confinement and “consequence management” (to use an American expression) after a terrorist attack, through identification of the nature of the attack and the efficient conduct of rescue operations.

This set of approaches lies in stark contrast with those—both military and political—which animate relations between potentially antagonistic states.

Dealing with these topics will require significant departures from existing defense policies and strategic cultures in all of the industrialized countries.

***Internal security and external security:
from discontinuity to convergence***

One of the consequences which flow from the emergence of the threat of destruction by non-state actors, is the transformation of the “traditional” (or more accurately the “Westphalian”) divide between the external and internal dimensions of state security. In practice, as well as in the popular perception, the discontinuity between these two realms is no longer tenable, since the non-state antagonist works from within the targeted society while also operating across borders. This new paradigm carries with it three basic and closely related international implications:

- Although the tools of military force projection will continue to be materially distinct from those of internal police action, the basic facets of counter-terrorism (prevention, pre-emption, repression, and damage limitation) will have to be considered in an integrated manner. Furthermore, domestic security and external defense machinery will have to be tightly coordinated, since counter-terrorism involves a broad array of fields (such as the economic, financial, diplomatic, political, judicial, police, intelligence, and defense fields) which often cut across the external/internal divide. In the French case, this is beginning to happen with the establishment, at the Presidential level, of a “Conseil de Sécurité Intérieure” alongside the “Conseil de Défense”;
- Cross-border terrorism can only be met through cross-border counteraction;
- Cross-border non-state violence cannot be effectively countered without the cooperation of other cross-border non-state actors, such as the banking community and the transportation industry.

Taken together, these factors imply a transformation of pre-9/11 approaches to security and defense.

Alliances and partnerships

***The US and its allies: mission-driven
coalitions versus permanent alliances***

Along with the threat situation, the nature and content of strategic partnerships between the US and its European and Asian allies are also undergoing transformation.

In the aftermath of 9/11, US policy was officially encapsulated by Donald Rumsfeld’s and Paul Wolfowitz’s stark formula “It’s the mission that makes the coalition.” Although unobjectionable given the requirements of the time (war had to be waged swiftly and decisively with the means immediately at hand against the Taliban and the al-Qaeda bases in Afghanistan), this was a basic departure from pre-9/11 rhetoric. The Bush administration’s propensity for avoiding legally binding foreign commitments had not hitherto openly extended to US military alliances.

In other words, there is a trend away from old-style alliances functioning as automatic defense pacts and war-machines: this evolution is particularly clear in the case of NATO, but also applies to East Asia.

This trend does not necessarily entail strategic decoupling between North America and its Asian and European allies. There are, however, two ways in which strategic solidarity could be undermined: one way would be the deliberate disregard of the basic interests of one's partners (for example, heedless protectionism versus free trade, or the systematic undermining of all rule-based attempts at regulating the international system); the other (more prosaic) way would be the display of a lack of interest in using the machinery which allows the forces of the allied countries to work together when the need arises.

The limits of power: prevention and pre-emption

In his State of the Union speech of 29 January 2002, President Bush outlined a new US strategy of prevention⁸ for coping with the threat of mass destruction from terrorist groups and states supporting them. This major turning point drew little public attention at the time, given the *brouhaha* provoked by the "axis of evil" formula. However, the fundamental nature of the shift became more apparent with the prominence and detailed treatment given to pre-emption and prevention in President Bush's speech at the West Point Military Academy on 1 June 2002.⁹ This raises several connected (but analytically distinct) questions, the answers to which each have potentially major consequences for the US-European relationship:

- Can self-defense, in the sense of Article 51 of the UN Charter,¹⁰ be legitimately extended to first-strike policies? And, as a companion question, will the answer be the same if the strike is effected against a non-state actor rather than against a state?¹¹
- Independently of international jurisprudence, is there any strategically viable alternative to prevention and pre-emption when facing non-state actors who cannot, by definition, be deterred, and who, if unchecked, could inflict an unacceptably high degree of damage on society (through the use of nuclear or biological weapons, for example)? If (and one is tempted to write "Since" instead of "If") the answer to this second question is: "No, there is no acceptable alternative.", what will be the effect of that answer on the previous question concerning Article 51? Even though pre-existing Article 51 jurisprudence does not cover actions such as Israel's preventive strike against the Osirak nuclear reactor in 1981,¹² given the emergence of non-state threats of mass destruction, it is possible that a new jurisprudence could be generated, if need be, via discussion in the UN Security Council.

- What kind of action does prevention cover? If pre-emption (striking the adversary before the adversary strikes) is clearly of a forceful nature (entailing military or police action, prevention can cover a much broader range of largely non-forceful actions. In this regard, not only will the European nations emphasize non-military prevention, through economic and political means, they will also be extraordinarily reticent towards forceful action which might use prevention as a pretext rather than as a demonstrable necessity against a clear and present danger;
- What would the primary geographical points of application of a pre-emptive strategy be? Along with Iraq, the tentative answers provided by the State of the Union speech are “North Korea and Iran.” This approach drew vigorous negative reaction from European and Asian officials. However, such condemnations do not in themselves constitute an alternative strategy for dealing with the post-9/11 threat of non-state actors.

After 9/11, just as before, the evolution of China is America’s most important long-term strategic concern. Although 9/11 has downgraded this concern in the public eye and has displaced the administration’s day-to-day attention, the “China question” remains. Indeed, in some ways it has been exacerbated by the consequences of the fight against al-Qaeda: not only is the US now militarily present in Central Asia, but in addition it has tightened its overall relationship with Russia, while also flexing its diplomatic muscles in South Asia. This is another way of saying that US relations with its European and Japanese partners will be largely shaped by the manner in which America’s allies act (or do not act) in a manner congruent with Washington’s China policy.

Although China holds the key, Russia (by virtue of its location, size, population, energy resources, and nuclear status) is also an essential player—much more so than one might conclude from Russia’s weak economic state.

Its unresolved territorial dispute with Japan notwithstanding, Russia no longer constitutes an adversary for the US and the Europeans. In terms of its conventional military means it is incapable of presenting a challenge. (Even a middle-sized state such as Poland is arguably more than capable of facing a hypothetical conventional Russian threat.) Furthermore, under President Putin’s stewardship, Russia has clearly decided to avoid even the slightest hint of hostility, for instance in response to the enlargement of NATO to the Baltic states, or to the fate of the Anti-Ballistic Missile (ABM) Treaty. Even if Putin’s “modernization first” policy were to be discarded in favor of an anti-western stance in geostrategic¹³ or military terms, it can be assumed that Russia’s GDP base would not allow it to reconstitute conventional forces of any significant power within ten years of any decision to do so. The nuclear dimension, however, represents a serious problem, less because of Russia’s nuclear strength (which can readily be met by Western nuclear deterrence) than because of

Russia's weakness. Indeed, given the basic interests of the EU and Japan, they should be investing at a level comparable with the United States in programs to reduce the risk of criminal or inadvertent dissemination of Russian nuclear, chemical, and biological weapons, material, and know-how. The US spends approximately \$5.8 billion in the former Soviet Union within the framework of the Cooperative Threat Reduction program. Comparable spending by EU states and Japan represents less than 10 percent of the US figure—hence the G8 proposal for a so-called “10+10+10 program” (\$10 billion from the US plus \$10 billion from the other G7 partners spent over a 10-year period). This was underscored at the G7/G8 Summit in Canada in June 2002.

Irrespective of whether Russia moves closer to NATO, the industrialized world will face the indirect security consequences of Russia's positioning as a Eurasian power. These principally involve energy policy (and its Middle Eastern ramifications) and relations with China.

Russian prime minister Mikhail Kasyanov has suggested¹⁴ that, over time, his country could become an alternative energy source which might alleviate the West's dependence on Saudi Arabia. Given that Russia's oil production has decreased by more than 25 percent since its Soviet-era peak in 1986 (7.06 Mbd in 2001 compared to 9.32 Mbd in 1991), this remains a highly theoretical objective. In 2001, oil exports from the former Soviet Union (75 percent of which come from Russia) stood at 4.7 Mbd—only 60 percent of the level of Saudi Arabia's oil exports; more significantly, however, Russia's proven oil reserves represent less than 5 percent of the world's total, compared to Saudi Arabia's 25 percent share.¹⁵

The fact remains that, given the prospect of heightened instability in the Middle East, the EU and Japan would be well advised to focus political, legal and financial efforts on oil prospecting and the acquisition of investment rights in Russia, as well as on more traditional imports of Russian gas.

The Chinese dimension of the West's relationship with Russia is political and strategic in nature. Although for the moment this involves the US rather than America's allies (with the Western force presence in Central Asia seen by China as a US-led challenge), America's allies will have to pay close attention to the spin-off effects of US policies towards Russia. During the 1990s, notably under Prime Minister Primakov, the fashion in Moscow was to “threaten” the West with a countervailing strategic partnership between Russia and China (to which was added, with some audacity, India, which has excellent relations with Russia, but not with China). This would have been an unpleasant prospect, had it corresponded to a serious reality: as things were, there was no such axis in practice, although substantial transfers of Russian technology and arms to China were not helpful from the standpoint of US interests. This multipolar Russian balancing act is no longer invoked. Indeed, the risk could now run in the opposite direction, with an evolution whereby Russia might attempt to instrumentalize its European and Japanese

neighbours as partners to counter the economical and demographic challenges posed in the Russian Far East by an emergent China. This is a prospect, not a reality. However, the allied European and Asian countries will want to think through this dimension of their relations with Russia, given what it might entail for their relationship with China.

From this overview of the new security landscape, several general implications can be drawn.

- 1 The intensity of risks and threats has risen substantially, necessitating new organizational and budgetary initiatives within each of the European and Asian allies.
- 2 Current security challenges erode the traditional Westphalian distinction between the external and internal aspects of security and defense policy. This must in turn lead to a much higher degree of institutional and organizational congruence between domestic and external security and defense policy.
- 3 Military alliances are not configured to cope with these challenges; indeed, the United States is not relying on NATO to do so in Europe. However, military alliances should continue to play an important role as a provider of interoperability between US forces and those of their European and Asian partners.
- 4 The US military effort will continue to focus heavily on the greater Asian region, in view of US energy interests in the Middle East and Central Asia, nuclear instability in South Asia, and US economic and strategic interests in the Asia-Pacific area.

Notes

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This article is an adaptation of a lecture delivered by Professor Heisbourg in Tokyo in October 2002 under the auspices of the Institute for International Policy Studies.

- 1 For more on this subject, see Gilles Kepel, *Jihad: The Trail of Political Islam* (Harvard University Press, 2003).
- 2 Typical of these was the statement by President John F. Kennedy in 1963 that 15-to-20 nations could acquire nuclear weapons within a decade.
- 3 In 1977 fifty-two UN member states were not parties to the NPT.
- 4 The nuclear option was most seriously considered by Sweden (which had the full nuclear military fuel cycle in place by the end of the 1960s), and to a lesser extent by Switzerland (in the mid-1950s) and West Germany (in 1957-58, in cooperation with France and Italy).
- 5 Notable exceptions are Egypt, Israel, Kazakhstan, Sudan, and Syria.
- 6 See Ken Alibek [Alibekov] with Stephen Handelman, *Biohazard* (New York, 1998).
- 7 For more on this subject, see V.R. Raghavan, "Limited War and Nuclear Escalation in South Asia," *The New Proliferation Review* Vol. 8, No. 3 (Fall-Winter 2001), Monterey Institute of International Studies.
- 8 "We must prevent the terrorists and the regimes who seek chemical, biological or nuclear weapons from threatening the United States and the world."
- 9 In the West Point speech, President Bush did not name Iraq, Iran, or North Korea, nor did he mention the "axis of evil."
- 10 Article 51 recognizes "the inherent right of individual or collective self-defense if an armed attack occurs against a member of the UN."
- 11 Article 51 does not raise the issue of the state or non-state nature of an armed attack. However, Resolution 1368 of the Security Council (12 September 2001) applied Article 51 to the (non-state) attacks against the Twin Towers and the Pentagon.
- 12 Israel invoked Article 51 at the time, but was condemned by the UN Security Council, including the US.
- 13 Such as an attempted *rapprochement* with China.
- 14 Speech at the World Economic Forum, New York, 2 February 2002.
- 15 Source for all energy figures: *BP 2002 Statistical Review*.

**Logics of Security:
The Copenhagen School,
Risk Management
and the War on Terror**

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Political Science Publications

10/2005

1 Introduction

The debate about the meaning and significance of security for the constitution of political communities currently occupies a central place in critical security studies.¹ Focusing upon the link between security and the political, a range of theoretical and empirical studies has convincingly argued that security constitutes the political.² Departing with a nominalist view that names refer to objects, these studies have shown that naming is not just an act of providing a label to a pre-existing object but the discursive formation of that object itself.³ Indeed, by now there seems to be a broad agreement in security studies that self-identity, to a degree, is constituted through the externalisation of the other as a threat. However, a performative act of naming can take many different forms, and it is not completely clear from these studies what distinguishes ‘security’ from other types of performative power.

In an attempt to excavate the logic(s) of security that are currently at work in world politics, this paper claims that the Copenhagen school, which has done systematic research into the logic of security, can add to our understanding of how ‘security’ performs its constitutive function. While the Copenhagen school has contributed little to the relationship between security and the political, this paper argues that it is possible to read the Copenhagen school in the light of Carl Schmitt’s rendering of the political as the exceptional decision that brings the friend/enemy distinction into existence.⁴ Although it is true that security can operate in this manner, this paper claims that the Schmittian logic does not exhaust all possible forms that the performative act of security can attain in contemporary world politics. More specifically, this paper argues that the Copenhagen school logic of security, which is based upon Schmitt’s exceptional decisionism can be theoretically complemented with the more routine-like logic of risk management. To illustrate the importance of the logic of risk management for current world politics empirically, this paper will briefly analyse the 2002 National Security Strategy of the United States in relation to the war on terrorism. It is argued that the security practices deployed in this war are informed, to a considerable degree, around the logic of risk management. By way of conclusion, this study will

¹ For an overview, see Krause and Williams (1996; 1997). See also Hansen (1997) and Smith (2000).

² See among others Dillon (1996), Walker (1997), Campbell (1998), Weldes *et al.* (1999) and Huysmans (forthcoming).

³ For a good discussion of the ‘radical contingency of naming’, that is, the performative power of discursive articulations, see for example Žižek (1989: 89-129) and Bourdieu (1991).

⁴ See also Huysmans (1998a) and Williams (2003).

end with a few normative considerations concerning the logic of risk management, arguing that practices structured around this logic can operate in ways that are undesirable for, or even in direct opposition to, the democratic ideals of liberty and equality.

2 The Exceptional Logic of Security: The Copenhagen School and the Political

Spurred by socio-political events such as the fall of the Berlin Wall, the demise of the Soviet Union and the rise of ethnic and intrastate conflicts, a debate emerged within security studies as to whether the neorealist conceptualisation of security was sufficiently broad to cover the wide range of threats to and human survival. On the one hand, the field was challenged by those who argued to include, besides military threats, a wide variety of other dangers to human well-being on the security agenda. On the other hand, neorealists were challenged by those who argued in favour of human security. In their view, the privilege given to the state was inadequate to address problems of human security who would need consideration on the level of the individual, sub-state groups or on the level of humanity as a whole. While the ‘early’ Copenhagen school has contributed to this debate (Wæver *et al.*, 1993), their ‘later’ writings demonstrate an increased dissatisfaction with the terms of the wide versus narrow debate (see Wæver, 1995; Buzan *et al.*, 1998). For the later Copenhagen school, the attitude of both neorealists and wideners towards security is troublesome because both take the security environment as pre-given and predetermined. Arguing that both camps treat threats and their referent objects as ‘brute facts’ that can be known outside the social context in which they emerge, proposes instead to study the processes through which specific issues become illocutionary constructed as security issues:

‘Security’ is thus a self-referential practice, because it is in this practice that the issue becomes a security issue – not necessarily because a real existential threat exists but because the issue is presented as such a threat...The process of security is what in language theory is called a speech act. It is not interesting as a sign referring to something more real; it is the utterance itself that is the act. By saying the words, something is done (like betting, giving a promise, naming a ship) (Buzan *et al.*, 1998: 24, 26).

What counts as a security issue depends upon how social actors frame the issue: “In this approach, the meaning of a concept lies in its usage and is not something we can define analytically or philosophically according to what would be ‘best’” (Buzan *et al.*, 1998: 24).⁵

⁵ See also Wæver (1999).

Obviously, not all speech acts share the grammar of securitising acts. According to the Copenhagen school, the rhetorical structure of a securitising act needs to contain three necessary building blocks: (a) existential threats to the survival of some kind of referent object that (b) require exceptional measures to protect the threatened referent object, which (c) justify and legitimise the breaking free of normal democratic procedures. Thus, through a securitising act an actor tries to elevate an issue from the realm of low politics (bounded by democratic rules and decision-making procedures) to the realm of high politics (characterised by urgency, priority and a matter of life and death) (see Buzan *et al.*, 1998: 21-26).

It is important to note that securitisation is not a subjective process at the level of individual conscience (in the head of the securitiser, so to speak). To the contrary, the Copenhagen school considers the construction of a security problem as a social or inter-subjective phenomenon. Apart from the fact that a securitising act needs to combine the three building blocks in its grammar, the chance for a securitising act to succeed also depends upon the fact whether or not the targeted audience accepts the securitising act: “A successful speech act is a combination of language and society, of both intrinsic features of speech and the group that authorizes and recognizes that speech” (Buzan *et al.*, 1998: 32).⁶ Ergo, much depends upon the social position and authority of the securitising actor. For example, while no single authority has a monopoly on securitisation, it seems that in general security experts (military, police, secret service) and political actors such as government leaders are in a better position to convince an audience of the need for security than other actors. Nevertheless, while a speech act can be socially conditioned by the position of the speaker and so on, Wæver argues explicitly that a speech act is indeterminate and radically open: “A speech act is interesting exactly because it holds the insurrecting potential to break the ordinary, to establish meaning that is not already in the context” (Wæver, 2000: 286, fn7).

When viewed as a radical open act rather than a socially prefigured action, securitisation theory bears a remarkable similarity to Carl Schmitt’s rendering of the political as the exceptional decision that constitutes the border between friend and enemy (see Huysmans, 1998a; Williams, 2003).⁷ In a Schmittian framework, then, the essence of the political consists of the constitutive

⁶ Knudsen’s (2001) critique that the Copenhagen school reduces security studies to the study of subjective images of security thus misreads the securitisation theory of the Copenhagen school. See also Buzan (1998: 33) and Wæver (2000: 252-3).

⁷ Please note that the presence of an *intellectual* relationship does not imply that the Copenhagen school shares the *normative* agenda of Carl Schmitt (who was an explicit supporter of the Nazi regime). To the contrary, whereas Schmitt would view securitisation as the authentic moment of political life, the Copenhagen school views it as something to be avoided, opting instead for desecuritisation.

decision to decide on the enemy: “Every religious, moral, economic, ethical, or other antithesis transforms into a political one if it is sufficiently strong to group human beings effectively according to friend and enemy” (Schmitt, 1996: 37). Although Schmitt does not deny that groups can compete with each other in economic, legal, aesthetic and moral terms, he claims that the political opposition between friend and enemy constitutes the most extreme of dichotomies: “The political is the most intense and extreme antagonism, and every concrete antagonism becomes that much more political the closer it approaches the most extreme point, that of the friend-enemy grouping” (Schmitt, 1996: 29). As such, for Schmitt the concept of the political occupies a similar place as the concept of security occupies for the Copenhagen school: “Just as for Schmitt it is the particularly intense relationship to an issue, rather than its intrinsic nature, that determines whether it is ‘political’, for the Copenhagen School it is precisely this process (and indeterminacy) that defines the process of ‘securitization’” (Williams, 2003: 516).

Beside the element of existential threat or the enemy, the two other building blocks of a securitising act – exceptional measures and breaking free of normal procedures – can also be linked to Schmitt’s rendering of the political. This is why, it is necessary to consider the link between the friend/enemy grouping and the concept of sovereignty in Schmitt’s theoretical framework. In his definition of sovereignty Carl Schmitt reverses the traditional Weberian definition of sovereignty as the legitimate power to rule. For Schmitt sovereignty does not exist as the juridically sanctioned power to rule, but as the capacity to call such an order into being: “Order must be established for juridical order to make sense. A regular situation must be created, and sovereign is he who definitely decides if this situation is actually effective” (Schmitt, 1985: 19). The establishment of order, according to Schmitt, is secured through an exceptional act that cannot be founded on legal principles. In Schmitt’s famous and oft-quoted words: “Sovereign is he who decides on the state of exception” (Schmitt, 1985: 1).⁸ The definition of the sovereign as the one who can declare a state of exception consists thus of two components. On the one hand, it refers to the ability of the sovereign to put him or herself above the law by breaking free of normal procedures. On the other hand, sovereignty also exists in the capacity to create a new legal system out of the nothingness or radical openness that characterises the state of exception. To quote Huysmans at some length:

“[T]he political significance of war does not reside in its actualisation but in its radicalisation of the exception into a real limit...War pushes the significance of the enemy to its most extreme realisation and it is here at this ‘passage to the limit’ that the political is grounded. It

⁸ At page 22, Schmitt argues in similar terms that “[t]he exception does not only confirm the rule; the rule as such lives off the exception alone.”

is at the limit articulated by 'war' that everyday political routine collapses, that the normal rules do not tell us how to go on. It is at the limit that one finds the radical open condition which allows for calling into being new rules, a new community" (Huysmans, 1998a: 581).

Thus while war need not be actually present between friends and enemies, Schmitt nevertheless maintains that "the ever present possibility of combat" grounds the domain of the political and that a 'passage to the limit' is the authentic self-delineation of a political community (Schmitt, 1996: 32).

In their exploration of security, the Copenhagen school comes to similar conclusions. For them, too, the exceptional logic of securitisation is captured most adequately by the logic of war: "[I]n the extreme case – war – we do not have to discuss with the other party; we try to eliminate them. This self-based violation of rules is the security act, and the fear that the other party will not let us survive as a subject is the *foundational* motivation for that act" (Buzan *et al.*, 1998: 26, emphasis added).⁹ Or as the former American Secretary of State J.F. Dulles put it: "The ability to get to the verge without getting into war is the necessary art. If you cannot master it...if you are scared to go the brink, you are lost" (quoted in Wight, 1991: 194).

There is, then, a close interplay between security on the one hand and the identity of a political community on the other in the sense that, viewed in light of Schmitt's rendering of the political, the management of a security situation becomes a founding practice for the community (cf. Huysmans, 1998a: 579). The field of security does thus not – as is generally assumed in International Relations theory – exist alongside other functional realms such as the economy; rather, a security act establishes the community through the identification of an enemy. This leads to the paradoxical situation that the construction of a community ultimately depends on the existence and suppression of that what is said to threaten it. The other, which poses an existential threat to the self, thus also functions as the constitutive outside that brings the self into being, being both its condition of possibility as well as its condition of impossibility: "Ironically, then, the inability of the state project of security to succeed is the guarantor of the state's continued success as an impelling identity. The constant articulation of danger through foreign policy is thus not a threat to a state's identity or existence: it is its condition of possibility" (Campbell, 1998: 12-3).¹⁰

Hence security can be considered as a signifier that calls the friend and enemy into being: the categories of friend and enemy do not exist prior to the securitising act that performatively constitutes them. As Bourdieu puts it: "[T]he signifier is identified with the things signified

⁹ See also Wæver (1995: 53-54).

¹⁰ For a more elaborate discussion of this logic, see Laclau and Mouffe (1990).

which would not exist without it, and which can be reduced to it. The signifier is not only that which expresses and represents the signified group: it is that which *signifies* to it that it exists, that which has the power to call into visible existence, by mobilizing it, the group that it signifies” (Bourdieu, 1991: 207).

Ergo, the point of departure for securitisation theory is that order is created through an exceptional decision that constitutes the border between friend and enemy. However, Bigo has rightly observed that such a conception of securitisation ignores the more every-day forms of securitisation (Bigo, 2001, 2002). Thus, as Williams claims, “to focus too narrowly on the search for singular and distinct *acts* of securitization might well lead one to misperceive *processes* through which a situation is gradually being intensified, and thus rendered susceptible to securitization, while remaining short of the actual securitizing decision” (Williams, 2003: 521). While everyday, routine-like processes of securitisation may indeed lack the intensity of an exceptional decision, it would be wrong to assume that these therefore are without any real significance for an understanding of security in the current world order. To the contrary, the current war against terrorism shows that the central focus of security is no longer focused on existential threats alone, but also on potential threats or risks. Before discussing this in more detail, it is first necessary to point out that the shift from existential threats to potential threats is by no means absolute. The exceptional logic of a Schmittian securitisation, and the more routine logic of a securitisation in terms of risk, do not mutually exclude each other. Nevertheless, it is useful, for analytical purposes, to distinguish between both logics as it may provide a better insight into the different dynamics that can inform the practices of security within the international system.

3 The Routine Logic of Security: The Constitutive Significance of Risk Management

Risk management differs significantly from exceptional logic of security that was put forward in the previous section.¹¹ Risk management, first of all, is not a decision that calls the binary opposition between friend and enemy into existence; rather, risk management should be considered as a regulating form of security that permanently identifies, classifies and constitutes groups/populations on the basis of the risk that is ascribed to these groups. Concomitantly, risk management does not consider friend and enemy as two, mutually exclusive, binary groupings,

¹¹ For a few notable exceptions to the opposite see Huysmans, 1998b: 501; Bigo, 2002. The security logic of risk management has so far been noticed mainly outside the direct context of international relations. See for instance Castel (1991), Ericson and Haggerty (1997), Lupton (1999), Hope and Sparks (2000) and Garland (2001).

but as end points on a continuum of threats that are more or less likely to concretise in the foreseeable future. Contrary to existential threats, risks only exist as potentialities, which entails that risk management is mainly concerned with making sure that risks are prevented from developing into concrete, acute threats to the survival of a community. Thus, rather than excluding an existential threat risk by staging it as the enemy that threatens survival, risk management seeks to measure, evaluate and reduce the dangerousness of so-called risky populations. To quote Castel at some length:

“[A] shift becomes possible as soon as *the notion of risk is made autonomous from that of danger*. A risk does not arise from the presence of a particular precise danger embodied in a concrete individual or group... There is, in fact, no longer a relation of immediacy with a subject because there is no longer a subject. What the new preventive policies primarily address is no longer individuals but factors, statistical correlations of heterogeneous elements. They deconstruct the concrete subject of intervention, and reconstruct a combination of factors liable to produce risk. Their primary aim is not to confront a concrete dangerous situation, but to anticipate all the possible forms of irruption of danger” (Castel, 1991: 288).

In risk management, the subject is not encountered as a unique person with some sort of indispensable inner singularity, but as an aggregate of risk factors, a modulation that can be managed and tamed through continuous monitoring. Risk management reduces ‘individuals’ to ‘dividuals’, that is, a part of their identity (Deleuze, 1995). Risk management assembles personal, biographic characteristics into the collective identities of risk profiles. Whereas in the Schmittian dynamics of security, one is either friend or enemy, risk management does not operate on the basis of such stable identities, and everything depends upon the specific configuration of factors that are considered likely to produce risk. In the words of Hardt and Negri: “The Other that might delimit a modern sovereign Self has become fractured and indistinct, and there is no longer an outside that can bound the place of sovereignty... Today it is increasingly difficult... to name a single unified enemy; rather, there seems to be minor and elusive enemies everywhere” (Hardt and Negri, 2000: 189). Thus whereas the exceptional decision creates a spatial order, risk management disrupts the link between space and order. Or, to put it differently, risk management “does not have to draw the line that separates the enemies of the sovereign from his obedient subjects; it effects distributions around the norm” (Foucault, 1978: 144). In risk management, therefore,

“we detect a new dynamic by means of which security goes hyperbolic, since any assemblage, organisation or population, however differentiated and specified, may *become* acerbic. Security goes hyperbolic in as much as unlimited knowledge of infinitely defineable

assemblages, populations and networks is a necessary concomitant of the problematic of becoming-dangerous” (Dillon and Reid, 2001: 57).

Risk management, Foucault in turn concludes, brings “life and its mechanisms into the realm of explicit calculations” and makes “power/knowledge an agent of transformation of human life” (Foucault, 1978: 143). Because risk management is not focused upon an existing existential threat, the logic of risk management is by definition preventive (see figure below).

Figure 1. Three Differences Between Securitisation and Risk Management

	Securitisation	Risk Management
Representation of threat	Friend/Enemy opposition and personification of the enemy.	Friend/Enemy Continuum and impersonal correlation of factors liable to produce risk.
Measures/ strategy	Exceptional measures that bypass normal political procedures; measures counteract existential threat.	Normal measures such as surveillance and risk profiling; measures contribute to the social control of large populations.
Objective	Elimination of threat; the elimination of a threat secures the collective survival of a socio-political order.	Management of risks against the background of uncertainty and contingency; risk management seeks to prevent risks from developing into existential threats.

The strategic goal of risk management is to intervene before the situation reaches to the point of extremity in which exceptional measures are called for. Instead of bringing conflict to the extreme of war, risk management “thus attempts to pre-empt or dedramatize conflict by acting upon the physical and social structures within which individuals conduct themselves” (Rose, 1999: 237). Effective risk management demands a *cybernetics of control* in which risk calculations, risk management and risk reduction form an integral part of security measures. This is exemplified, for instance, by the current security discourse of the United States in relation to the war on terrorism.

4 The National Security Strategy and the War against Terrorism

In opposition to the period before 9/11, American security discourse in the 2002 National Security Strategy seems more concerned with prevention than defence: “We must adapt the concept of imminent threat to the capabilities and objectives of today’s adversaries...To forestall or prevent such hostile acts by our adversaries, the United States will, if necessary, act pre-emptively” (White House, 2002: 15).¹² The shift from defence to prevention takes its point of departure in the behavioural potentialities of states rather than their actual behaviour: “[T]he United States can no longer solely rely on a reactive posture as we have in the past. The inability to deter a potential attacker, the immediacy of today’s threats, and the magnitude of potential harm that could be unleashed by our adversaries’ choice of weapons, do not permit that option. We cannot let our enemies strike first” (White House, 2002: 15). Whereas anticipatory self-defence as it is understood in international law still operated with an image of reactive violence, the war on terrorism replaces this picture with that of proactive intervention: “We must deter and defend against the threat *before* it is unleashed” (White House, 2002: 14).

As such, prevention entails a move from danger to risk. The aim is no longer to confront a concrete danger, but to intervene before threats have fully emerged. In a way, preventive security is virtual in the sense that it is one step further away from danger in its potentiality. But at the same time it is real, since the future increasingly determines present security choices (cf. Lupton, 1999: 93). The shift from defence to prevention, re-action to pro-action, deterrence to intelligence, and events to eventualities is to be considered mainly on an ontological level. Contrary to defence, prevention takes *insecurity* rather than security as the underlying value of security politics: “We are today a nation at risk to a new and changing threat. The terrorist threat to America takes many forms, has many places to hide, and is often invisible. *Yet the need for homeland security is tied to our enduring vulnerability*” (Office of Homeland Security, 2002, preamble, emphasis added). While defence implies protection, safety and trust, prevention operates on the basis of permanent feelings of fear, anxiety and unease – feelings that are

¹² The notion of pre-emption is not a new one in the context of international relations and international law. The International Court of Justice has ruled that pre-emptive violence in the case of self-defence is only allowed if the faced threat is immanent and overwhelming, leaving no time to neutralise the threat via other (diplomatic) channels. According to international law, a pre-emptive attack is only legitimate as a reaction to the enemy’s determined decision to issue an attack. The way the notion of pre-emption is used in current American discourse, however, radicalises such a notion as it makes no mention of irrevocable acts committed by the other side. Indeed, as it only speaks of capacities and intentions, current United States discourse is better described as preventive rather than pre-emptive.

normally considered with the exceptional situation of an extraordinary threat. Preventive security is virtual security: on the one hand, risk is one step further away from danger in its potentiality but, on the other hand, risks are real in the sense that risk scenarios increasingly determine policy choices in the present.

The aim of the Computer Assisted Passenger Pre-Screening (CAPPS) system, for instance, is to gather data about all passengers flying to the United States. On the basis of information about name, age, address, passport, credit card number and previous travels, CAPPS classifies the potential dangerousness of all travellers. It constructs three different risk classes/identities: green, yellow and red, with green meaning non-dangerous and red meaning very dangerous. Muslim visitors from the Middle East are automatically assigned the yellow identity (cf. Ramonet, 2003; Lyon, 2003). However, surveillance is not just limited to foreigners entering the United States. The Terrorist Screening Center (TSC), a joint initiative of the Department of Justice, Department of Homeland Security, the Intelligence Community, the FBI and the State Department, seeks to install surveillance and data collection as a routine of every-day life within and outside the United States. As Attorney General Ashcroft argues: “The Terrorist Screening Center will provide ‘one-stop shopping’ so that every federal anti-terrorist screener is working off the same page – whether it’s an airport screener, an embassy official issuing visas overseas, or an FBI agent on the street.” (Department of Homeland Security, 2003). The result is that the differences between inside/outside, police/military and FBI/CIA become increasingly blurred. On the one hand, there is an increasing internalisation of external security in the form of ‘domestic spying’ and data collection within the United States. On the other hand, externalisation of internal security (policing beyond borders) is taking place in remote places such as Afghanistan. Hence, Tom Ridge’s (Secretary of Homeland Security) remark that the Terrorist Screening Center will make it possible to put intelligence to immediate use at the front lines of the battle against terrorism, misses the crucial point that there are no clear front lines in the war on terror. Rather, the front is everywhere and no one can expect to be exempted from the network of surveillance and inspection: “Conduct is continually monitored and reshaped by logics immanent within all networks of practice. Surveillance is ‘designed in’ to the flow of everyday existence” (Rose, 1999: 236). In a sense, then, everybody is guilty until his or her risk profile proves otherwise.

Securitisation, then, is not just an exceptional decision that, as the Copenhagen school seems to make us believe, takes place largely outside the normal order, but also something that increasingly permeates everyday life in the form of risk management. From a normative point of view, the logic of risk management seems preferable to the exceptional logic laid down in

securitisation theory. Risk management, if successful, stops a securitising process from developing into an exceptional decision through which the normal rules are abandoned in favour of a situation that is structured by the extreme logic of war. The downside, however, is that risk management may in turn lead to an increasing securitisation of societies under normal, peaceful conditions. By way of conclusion, the next section therefore concludes with a few normative arguments against the logic of risk management.

5 Conclusion: Some Normative Considerations on Risk Management

Reading securitisation theory in the light of Carl Schmitt's conception of the political can provide insight into the meaning and significance of existential threats for the constitution of political communities. However, this study has argued that the Schmittian notion securitisation at work in the Copenhagen school conception of security can be usefully supplemented, theoretically and empirically, with the securitising logic of risk management. Taken together, both logics are able to provide a complex picture of the dynamics of securitisation in world politics. But, while attention is paid to the issue of securitisation, the normative dilemmas of securitisation have, a few notable exceptions to the contrary, received little attention. Therefore, this section will end with a few comments on the possible normative problems of risk management, which could provide some useful directions for future research on the normative aspects of securitisation. First, because risk management only functions if sufficient information exists about risk factors, this can lead to the paradoxical situation that liberal freedoms, such as privacy, are violated with the aim of protecting them against anti-democratic or anti-liberal forces. The war on terrorism seems to point in this direction as the anti-terrorist PATRIOT act extensively limits liberal freedoms (cf. Cole, 2002). A second reason is that in the world of risk management, the lack of information can lead to high, if not unacceptable, levels of uncertainty. Indeed, the fact that no reliable information is available about factors liable to produce risk may in the extreme case become a ground for preventive intervention. President George W. Bush hinted at this possibility in one of his remarks on the war against Iraq: "Many people have asked how close Saddam Hussein is to developing a nuclear weapon. Well, we don't know and that's the problem" (Bush, 2002). A third normative disadvantage of risk management is that the construction of risk populations can lead to discriminatory measures. Especially the increase of ethnic or racial risk profiles can contribute to a further social exclusion of groups (such as immigrants) that are already marginalised (cf. Lyon, 2003). A last disadvantage is that risk management, once started, might be difficult to stop. As there need not be a concrete threat, it is

difficult to determine when a threat has passed and when surveillance can be terminated. Threats are always potential, which justifies a constant risk awareness. Moreover, it is likely that the possible ineffectiveness of risk management will not bring about less but more risk management. That is, the failure to prevent a threat from happening can easily become an argument in favour of more risk management to make sure that such threats are unlikely to emerge again in the future. Although risk management as a process of securitisation can be desirable, it seems that in the long term desecuritisation is the more sustainable option for democratic societies. Or, to end with a quote by Ole Wæver, “transcending a security problem by politicizing it cannot happen *through* thematization in security terms, only *away* from such terms” (Wæver, 1995: 56).

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ISSN 1399-7319

Australian Journal of International Affairs, Vol. 51, No. 3, 1997

International Law and Security: Exploring a Symbiotic Relationship

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Introduction

The International Court of Justice's advisory opinion in July 1996 on the legality of the use of nuclear weapons, recent attempts by various countries to ban the use of land mines because they contravene humanitarian law, and the emerging international consensus for a treaty prohibiting nuclear tests, have raised questions about the relationship between international law and security. What connections exist between international law and security? I will attempt to shed light on the relationship between international law and security by examining recent legal developments through both the United Nations and state practice.

While there is plenty of literature on the relationship between international law and military force, no major study exists of the connection between international law and security which goes beyond the use of force. This is partly because, until recently, some strategic analysts assumed that international law had virtually no role in security.¹ Indeed, it is more common for international lawyers to analyse security than security analysts to refer to international law.² In this study I argue that there is a need for security analysts to understand international law.

While some analysts have talked of a 'tension' between international law and power,³ I argue that *there is a symbiotic relationship* between international law and security. Two concepts are in a symbiotic relationship if they depend on each other for existence or exist together in a way that benefits both of them. I argue that the use of force by states is often based on assumptions of shared norms and principles, demonstrating that states recognise the significance of international law even in conflict situations. I postulate that international law is valued partly because of the fear of greater anarchy in international society, while security plans, though predominantly predicated on 'worst case' scenarios, include assumptions that other states will respect international norms. Even while envisaging a war, policy makers often plan to use military power within conventionally accepted parameters. Moreover, the concept of proportionality provides a framework for reconciling the use of military force and

* International Politics, Murdoch University, Perth. I am grateful to Stephanie Copus Campbell, the journal's anonymous referees and the editor for useful comments on earlier drafts of this article. However, I am responsible for its shortcomings.

¹ Oscar Schachter, *International Law in Theory and Practice* (Boston, MA: Martin Nijhoff, 1991) pp. 5-9.

² For an interesting perspective on this debate, see Anne-Marie Slaughter Burley, 'International Law and International Relations Theory: A Dual Agenda', *American Journal of International Law* 87, 2 (1993) pp. 205-39.

³ Abram Chayes, 'International Law and Collective Security: Excerpts from the 1991 Friedmann Conference', *Columbia Journal of Transnational Law* 29, 3 (1991) pp. 509-13.

the dictates of international law.⁴ While collective security often reflects the existing power configuration in international society, it is also a good example of how security and international law complement each other.

My thesis utilises the concept of international society which has been associated with the English school of international relations.⁵ This concept is appropriate for this analysis partly because it incorporates elements of both the realist and liberal/idealist traditions. It is built on the intellectual traditions of Hobbes, Grotius and Kant. Although the notion of international society has some limitations, it can provide a framework for describing, explaining, predicting, and prescribing. This concept also recognises the recurrence of war and conflict, while positing that international actors acknowledge the existence of a common set of norms, principles and institutions which bind them. For example, Hedley Bull saw war as a central feature and determinant of the shape of the international system, and argued that 'war is a means of enforcing international law, of preserving the balance of power, and ... promoting changes in law generally regarded as just'.⁶ Bull's core values included security, law, and sovereignty. Working from this perspective, Michael Barnett has argued: 'Conflicts persist, wars occasionally occur, and states will balance the power of others, but by and large states have found it mutually advantageous to establish institutions and norms to further their collective interest in security and survival'.⁷

This article is divided into three parts. The first part examines the evolution of international law and how it was influenced by war and conflict. The second discusses different dimensions of security, including collective measures, and argues that security is generally conceived within a legal framework. Finally, the future prospects are assessed, concluding that more research needs to be done on how possible changes in the balance of military and economic power between the West and Asia is likely to impact on the evolution of international law and security.

International law has a strategic ancestry

Modern international law, which was identified with the rise of the sovereign state, goes back to the seventeenth century. It has a strategic ancestry and was developed in the context of war. Grotius, regarded as the founder of modern international law, argued in his 1625 book, *The Law of War and Peace*, that international law bound states in their relations with one another. Published during the Thirty Years War, Grotius's book illustrated the connection between security and international law. Following the end of the Thirty Years War in 1648, international law was consolidated by the Peace of Westphalia which made the sovereign state the cornerstone of the modern international system.

International law continues to play an important role in global affairs, especially as trade, transport, culture and communications link the people of the world ever closer. Interdependence among states and other international actors has meant that the value of international

⁴ Adam Roberts and Richard Guelff (eds), *Documents on the Laws of War*, 2nd edn (Oxford: Clarendon Press, 1989) p. 5.

⁵ For a range of views on international society, see, for example, Robert H. Jackson, 'The Political Theory of International Society' in Ken Booth and Steve Smith (eds), *International Relations Theory Today* (Cambridge: Polity Press, 1995) pp. 110–28; Nicholas J. Wheeler, 'Guardian Angel or Global Gangster: A Review of the Ethical Claims of International Society', *Political Studies* 44, 1 (1996) pp. 123–35; and Nicholas J. Wheeler and Timothy Dunne, 'Hedley Bull's Pluralism of the Intellect and Solidarism of the Will', *International Affairs* 72, 1 (1996) pp. 91–107.

⁶ Hedley Bull, *The Anarchical Society: A Study of Order in World Politics*, 2nd edn (London: Macmillan, 1995) p. 181.

⁷ Michael Barnett, 'The New United Nations Politics of Peace: from Juridical Sovereignty to Empirical Sovereignty', *Global Governance* 1, 1 (1995) p. 81.

law has risen tremendously. As Martin Dixon has argued, international law 'is the vital mechanism without which an increasingly interdependent world could not function'.⁸ The increase in interactions has provided opportunities for both cooperation and conflict, thereby making international law a significant mechanism through which international society can enhance justice, order, and security.

International society and international law

International law is an instrument through which international society seeks to achieve order, stability, and security. As Oscar Schachter has argued, international law is 'a product of political and social forces' which 'is dependent on behaviour' and is used as 'an instrument to meet changing ends and values'.⁹ From a slightly different angle, Bull defined international law as 'a body of rules which binds states and other agents in world politics in their relations with one another'.¹⁰ He saw international law as a means of preserving order. These definitions provide a security-neutral view of international law.

In this paper, I define international law as a set of principles, norms, rules, procedures and conventions which regulate the behaviour, and influence the choices, of states and other international actors with a view to maintaining security.¹¹ Theoretically, there are two perspectives on international law: natural and positivist. The natural law perspective emphasises the existence of universal principles while the positivist one stresses self-interest, utility, and consent. In practice, international law reflects both.

The main sources of international law include international treaties and conventions, international custom and diplomatic practices, the general principles of law, decisions of the International Court of Justice (ICJ), and opinions of prominent legal scholars and commentators. International institutions such as the UN Security Council, the Organisation for Security and Cooperation in Europe, and the European Union, also set norms and standards and influence the development of international law.

Despite its significance, international law is not easy to enforce. For centuries, international society has relied on the great powers to enforce international law, but when these powers themselves violate it, virtually nothing can be done to them. In the post-World War II period, the UN Security Council has occasionally sought to enforce international law by authorising collective measures against malefactors, but its role has been limited to the breaches of international peace, and even there the Council has not been consistent. For example, during the Cold War the Soviet Union and the United States breached international law on several occasions. The American interventions in Grenada in 1983 and in Panama in 1989, like the Soviet invasion of Afghanistan in 1979, were condemned by some countries, but no steps were taken against the malefactors. In the case of American support for Nicaraguan contra rebels in the 1980s, the US withdrew from the compulsory jurisdiction of the ICJ. As Andrew Hurrell has argued, rich and powerful states tend to 'have a disproportionate influence over the content and application of international legal rules'.¹² Moreover,

⁸ Martin Dixon, *Textbook on International Law*, 2nd edn (London: Blackstone Press, 1993) p. 2.

⁹ Schachter, *International Law in Theory* p. 5.

¹⁰ Bull, *The Anarchical Society* p. 122.

¹¹ It would be interesting to examine how international law helps shape the strategic behaviour of states, but this paper concentrates on the symbiosis between international law and security. For one perspective on how law influences strategic behaviour, see Stephen A. Kocs, 'Explaining the Strategic Behavior of States: International Law as System Structure', *International Studies Quarterly* 38, 4 (1994) pp. 535-56.

¹² Andrew Hurrell, 'International Society and the Study of Regimes: A Reflective Approach' in Volker Rittberger (ed.), *Regime Theory and International Relations* (Oxford: Clarendon Press, 1993) p. 60.

international law both reflects and sustains the existing political order and distribution of power.

It is because of the Western powers' dominant influence on international law that some Third World countries have suggested that the law should be restructured now that the diplomatic arena has expanded and international actors have become more diverse. Ironically, it is international law that gives Third World states the fiction of equality with their former colonisers. Moreover, it is international law, particularly its rules concerning state sovereignty and non-intervention in domestic matters, which provides a security framework for Third World states.

Over the years, international law has been expanded in response to conflict, war or threat of war. It has also influenced the way international society exploits its sea resources, uses the environment, and upholds human rights. Indeed, the development of international law has followed closely changes in international norms, values, and institutions.

For example, the laws of war are some of the earliest expressions of international law and they reflect the relationship between law and security. However, these rules have been modified as international values have changed. Over four centuries ago, the unilateral use of force was governed by the 'just war' doctrine, which stipulated that war could be undertaken only for a 'just cause'. With the rise of the Westphalian state, the guiding doctrine became the sovereign right to resort to war and every state had a right to go to war for any reason. This principle remained in force until 1919 when the League of Nations restricted a state's resort to war and sanctioned the concept of self-defence and using force short of war. Under this arrangement the rescue of nationals, reprisals and humanitarian intervention were considered legitimate uses of force. It was not until after World War II, and the adoption of Article 2(4) of the UN Charter, that the unilateral use of force 'against the territorial integrity or political independence' of any state was prohibited. The UN also tried to consolidate efforts to control weapons of mass destruction.

The purpose of arms control is to enhance security by regulating the quantity and quality of weapons. Arms control agreements have become important because of the ease with which countries can obtain materials and the technology to produce weapons of mass destruction. As Gordon Craig and Alexander George have argued, 'a viable international community and an accepted body of law and custom to guide and control it' have had a significant impact on security by reducing the frequency of interstate wars.¹³

International law has also been extended to human rights, which are becoming a bedrock of political stability. Previously considered the exclusive preserve of sovereign states, human rights have been increasingly guaranteed in international conventions. In recent years, David Forsythe and other scholars have argued that rights have a strong bearing on international security.¹⁴ Some of the recent conflicts in, for example, Sri Lanka, Liberia, and Burundi, have partly resulted from conditions in which governments abused human rights. The link between human rights abuse and regional instability has highlighted the relationship between international law and security.

¹³ Gordon A. Craig and Alexander L. George, *Force and Statecraft: Diplomatic Problems of Our Time*, 3rd edn (Oxford: Oxford University Press, 1995) p. x.

¹⁴ David P. Forsythe, *Human Rights and Peace: International and National Dimensions* (Lincoln, NE: University of Nebraska Press, 1993).

Security has a legal dimension

Security is an end, not a means

Much of the debate about security revolves around the means and approaches to security, not its ends. Security has often been defined in relation to war, military strategy, weapons, deterrence and similar issues, but not in terms of its goals. In this paper, I define security as the preservation of society's principal values, norms, rules, and institutions. This definition covers the states system, and the principles, values, and norms that go with it. It also includes the protection of people and their institutions from military and non-military threats and the guarantee of basic needs and fundamental freedoms.¹⁵ This assumes that the role of military force as a guarantor of security will remain paramount, but it is not the only means of attaining security. Since security is primarily about the preservation of norms, rules, and institutions, it has a legal dimension.

Military capacity is one of the most important *means* by which states can protect their values, norms, and institutions, but it is not an end in itself; security is the *end*. Military means are an instrument through which security can be achieved, but defining security solely in military terms confuses means with ends. A fundamental characteristic of security is its Clausewitzian dimension; that is to say, it is always the *political leadership*, national, regional or international, which determines whether or not action should be taken to meet a particular security threat.

This attempt to define security in non-military terms is not a post-Cold War phenomenon. About two centuries ago, Carl von Clausewitz argued that war was fought for political reasons, and that 'the political object, as the original motive of war, will be the standard for determining both the aim of the military force and ... the amount of effort to be made'.¹⁶ Following Clausewitz's argument, security should be regarded as the political objective. Indeed, during the Cold War, the East-West nuclear competition was driven by the interests of the political leaderships on both sides to preserve their political, economic and social systems. Western Sovietologists believed that the objective of Soviet national security policy was to protect the Soviet homeland and the gains of communism. Similarly, the US and Western leaders were primarily concerned with preserving their political, economic, and social ways of life. Thus security was principally about the political, ideological, economic, and social stability of the two antagonistic systems. As US Deputy Secretary of State Strobe Talbott, has argued, the Cold War was a conflict 'between competing concepts of how to organise the political and economic lives of individual human beings'.¹⁷

In the past two decades, several analysts have tried to define security as a concept which has 'political, economic and cultural dimensions'.¹⁸ Richard Ullman defined a security threat in 1983 as an action or event that 'threatens drastically and over a relatively brief span of time to degrade the quality of life for the inhabitants of a state'.¹⁹ Ullman's definition implies that security is 'the quality of life'. Similarly, Barry Buzan has argued that the concept of

¹⁵ For an elaboration of these points, see Samuel M. Makinda, 'Sovereignty and International Security', *Global Governance* 2, 2 (1996) pp. 149–68.

¹⁶ Carl von Clausewitz, in Anatol Rapoport (ed.), *On War* (Harmondsworth: Penguin, 1985) p. 109.

¹⁷ Strobe Talbott, 'The New Geopolitics: Defending Democracy in the Post-Cold War Era', *World Today* 51, 1 (1995) p. 7.

¹⁸ See, for example, Helga Haftendorn, 'The Security Puzzle: Theory-Building and Discipline-Building in International Security', *International Studies Quarterly* 35, 1 (1991) p. 16.

¹⁹ Richard H. Ullman, 'Redefining Security', *International Security* 8, 1 (1983) p. 123. See also Emma Rothschild, 'What is Security?', *Daedalus* 124, 2 (1995) pp. 53–98; and Edward A. Kolodziej, 'Renaissance in Security Studies? Caveat Lector!', *International Studies Quarterly* 36, 4 (1992) pp. 421–38.

security is complex and has political, military, economic, societal, and environmental dimensions.²⁰ These definitions, coupled with notions like 'common' and 'cooperative' security, tend to point to the growing diversity of opinions about security, but below the surface, many of the differences are about the *causes* of threats, and the *approach* to security, rather than the ends. If security was defined in terms of ends, the focus would be on the preservation of values, norms, rules and institutions, and most of the differences among analysts would probably disappear.

Differing perspectives on security

One of the premises of my argument is that security is concerned with the political, economic and social organisation of states and international society. However, several analysts have criticised attempts to define security in non-military dimensions. Andrew Mack believes that there 'are good reasons for keeping the human rights and security-as-prevention-of-war agendas separate for analytic and policy purposes'.²¹ Sean Lynn-Jones, on the other hand, argues that security studies should broaden its focus to include nationalism, economics and Third World problems, but that non-military issues 'should not be incorporated wholly into the domain of international security studies, except when they are linked to problems of international conflict and the potential use of force'.²² He argues that the 'questions that form the central focus of the field are concerned with international violence and external threats to the security of states'.²³ Although this approach might address some security issues, it excludes the core causes of security problems in the Third World.

Several Third World scholars have defined security in relation to political, economic and societal problems. Mohammed Ayoob has defined security as the political 'vulnerabilities that threaten, or have the potential, to bring down or significantly weaken state structures ... as well as the regimes that preside over these structures and profess to represent them internationally'.²⁴ He has argued that most security threats in Third World countries emanate from internal sources such as the lack of political legitimacy, not from external sources. Ayoob's argument revolves around state structures and the political élite. Caroline Thomas, who has defined security in the political, economic, ecological and societal contexts, has argued that while Third World countries enjoy 'international legitimacy, they lack internal legitimacy'.²⁵ The international legitimacy which Third World states enjoy stems from international law.

Broadening the concept of security, the Commission on Global Governance has argued that security includes the protection of people from their own states. It has stated: 'The security of people recognises that global security extends beyond the protection of borders, ruling elites, and exclusive state interests to include the protection of people'.²⁶ This view has

²⁰ Barry Buzan, 'Is International Security Possible?' in Ken Booth (ed.), *New Thinking About Strategy and International Security* (London: Harper Collins, 1991) p. 33.

²¹ Andrew Mack, *Concepts of Security in the Post-Cold War*, Working Paper 1993/8 (Canberra: Department of International Relations, Research School of Pacific Studies, Australian National University, 1993) p. 2.

²² Sean M. Lynn-Jones, 'The Future of International Security Studies' in Desmond Ball and David Horner (eds), *Strategic Studies in a Changing World* (Canberra: Strategic and Defence Studies Centre, Research School of Pacific Studies, Australian National University, 1992) pp. 73–7.

²³ *Ibid.* p. 74.

²⁴ Mohammed Ayoob, 'The Security Problematic of the Third World', *World Politics* 43, 2 (1991) p. 259.

²⁵ Caroline Thomas, 'New Directions in Thinking About Security in the Third World' in Booth (ed.), *New Thinking About Strategy and International Security* p. 268.

²⁶ Commission on Global Governance, *Our Global Neighbourhood* (New York: Oxford University Press, 1995) p. 81.

implications for sovereignty and international law. John Chipman also has argued that it is 'precisely the rise in international concern about human rights and the emphasis on attaching sovereignty to people rather than territory that has begun to loosen the constraints on interference in the domestic affairs of states'.²⁷ He has concluded that human rights and good governance have become international strategic issues. Indeed, the concept of security needs to address the rights and responsibilities of both states and individuals.

The UN includes human rights and state sovereignty in its definition of peace and security, but it does so inconsistently. For example, the Universal Declaration of Human Rights proclaimed that 'recognition ... of the inalienable rights of all members of the human family is the foundation of ... peace in the world'. Moreover, the first ever heads of state Security Council summit in January 1992 argued: 'The non-military sources of instability in the economic, social, humanitarian and ecological fields have become threats to peace and security'.²⁸ In practice, however, state sovereignty takes precedence.

The UN's broad view of security prompted the former Australian Foreign Minister, Gareth Evans, to argue that the concept of security, 'as it appears in the [UN] Charter, is as much about the protection of individuals as it is about the defence of the territorial integrity of states'.²⁹ Evans's argument is clearly exaggerated, and while the Charter refers to 'peoples' in relation to Articles 1(2) and 55 on self-determination, it does not specifically address the protection of individuals in relation to breaches of international peace and security. Nonetheless, this broad definition of security has important implications for state sovereignty and international law. It also highlights that security ought to be understood in the context of international society's principal values, norms, and institutions.

International society and security

Bull suggested that international society refers to the existence of common rules, values, institutions and interests that bind states together. If one of the principal goals of security is to preserve the core values of international society, then security cannot be explained fully without reference to international law. The system of states and its norms and institutions constitute an important part of international law, and when these norms are threatened, the states act to protect them. It was partly for this reason that the United States and its coalition partners intervened in 1991 to evict Iraq from Kuwait. Iraq's invasion of Kuwait from August 1990 was a violation of Kuwait's sovereignty and territorial integrity and went against Article 2(4) of the UN Charter.

In organising the coalition against Iraq, US President Bush talked of a new world 'where the rule of law supplants the rule of the jungle, a world in which nations recognise the shared responsibility for freedom and justice'.³⁰ Six months later, when announcing the ceasefire with Iraq, Bush argued that the defeat of Iraq was a victory for the UN, for the rule of law, and for what is right. Although it is possible that the US and its coalition partners had other motives, the 1991 Gulf War is a good example of the close relationship between international law and security. The creation of the anti-Iraq coalition and subsequent military actions were justified in ethical and legal terms. Moreover, the collective action against Iraq was consistent

²⁷ John Chipman, 'The Future of Strategic Studies: Beyond Even Grand Strategy', *Survival* 34, 1 (1992) p. 117.

²⁸ United Nations, *Note by the President of the Security Council*, UN Doc. No. S/23500 (31 January 1992) p. 3.

²⁹ Gareth Evans, 'Cooperative Security and Intrastate Conflict', *Foreign Policy* 96 (1994) p. 9.

³⁰ George Bush, 'Toward a New World Order', *US Department of State Despatch* (17 September 1990) p. 91.

with Articles 48 and 53 of the UN Charter. Article 48 allows the Security Council to specify which countries carry out its operations while Article 53 permits the Council to authorise collective action by regional arrangements. Through Security Council Resolution 678 of November 1990 authorising members 'to use all necessary means' to liberate Kuwait, the UN gave legal standing to the US-led effort.

For many centuries, military force has been regarded as the main element in security because war has generally been considered the central problem in international society. For example, Bull has argued that it was war and the threat of war that helped determine whether particular states survived or were eliminated, whether they rose or declined, and whether their frontiers remained the same or were changed.³¹ War, therefore, has been perceived as both the consequence and determinant of the nature of international society, but the use of force is governed by the laws of war.

However, the use of nuclear arms and other weapons of mass destruction would violate the laws of war. As the ICJ said in July 1996, 'the threat or use of nuclear weapons would generally be contrary to the rules of international law applicable in armed conflict, and in particular the principles and rules of humanitarian law'.³² The indiscriminate nature of nuclear war has meant that the security of various states is linked or interdependent. Interdependence also implies a transition from the dominance of national interests to the emergence of common rules, norms, principles and institutions, which has rendered international law more significant. Helga Haftendorn has defined international security as a concept 'based on a mutual survival under conditions of nuclear deterrence and on recognition that an adversary will be deterred from attacking out of its own self-interest',³³ but this is a narrow definition which is not relevant in the post-Cold War era, in which security is increasingly enforced by the UN and other actors which have no nuclear arms.

Post-Cold War changes highlight the law–security relationship

The post-Cold War imperatives have required international society to adopt some 'creative' responses to security problems caused by the collapse of communism, the Soviet Union and the former Yugoslavia, and the upsurge in ethnic nationalism. These developments have raised fresh questions about state succession, self-determination and sovereignty, and their legal and security implications.

State succession. The collapse of the USSR in 1991 and Yugoslavia in 1992, drew attention to the security implications of state succession. As the USSR possessed about 27 000 nuclear weapons, international society was concerned about the stability of US–Soviet arms control treaties. Which of the fifteen former Soviet republics would inherit the USSR's treaty obligations? Russia indicated in January 1992 that it wanted to 'be considered as the Party in all international treaties in force in place of the Union of Soviet Socialist Republics'.³⁴ President Yeltsin declared that Russia regarded itself as 'the legal successor to the USSR' in international obligations and confirmed a readiness to abide by all bilateral and multilateral arms control treaties which Moscow had concluded. By this time, the UN Security Council had already endorsed Russia's desire to inherit the former Soviet positions in the UN system, including a permanent seat on the Council.

³¹ Bull, *The Anarchical Society* p. 181.

³² International Court of Justice, 'Legality of the Threat or Use of Nuclear Weapons: Advisory Opinion', *Communiqué* 96/23.

³³ Haftendorn, 'The Security Puzzle' p. 9.

³⁴ George Bunn and John B. Rhineland, 'The Arms Control Obligations of the Former Soviet Union', *Virginia Journal of International Law* 33, 2 (1993) pp. 324–5.

The Russian assumption of responsibility for Soviet international obligations was a political and strategic necessity which did not strictly adhere to the 1978 Vienna Convention on Succession of States in Respect of Treaties, according to which all the fifteen former Soviet republics were bound by Moscow's treaty obligations. Article 34 of the Convention states: 'When a part or parts of the territory of a State separate to form one or more States ... any treaty in force at the date of the succession of States ... continues in force in respect of each successor State'.³⁵ However, because only four republics possessed nuclear weapons, Western powers were mainly interested in these four (Belarus, Kazakhstan, Russia and Ukraine). The preference for Russia stemmed from the fact that it was militarily the strongest, the most populous and had the most nuclear arms. Thus Russia was accepted speedily as the successor to the USSR primarily for security reasons; the Security Council interpreted the law of state succession with a view to averting a perceived nuclear danger.

However, the Security Council's attitude towards the Federal Republic of Yugoslavia (FRY) was markedly different. The initial rejection of the FRY occurred because it was involved in the Balkan War, in which case international law was interpreted with a view to containing a regional conflict. The manner in which the UN approached the Balkan conflict brought out contradictions not only in the way it dealt with state succession, but also with self-determination.

Self-determination. In general terms, self-determination means that a 'people' determines its own future, but it has been a cause of regional instability and uncertainty.³⁶ The exercise of the right of self-determination, as well as its denial, can lead to a deterioration in regional security, depending on the prevailing conditions. For instance, the decision to grant the right of self-determination to Bosnia and deny the same right to the Bosnian Serbs was one of the causes of the civil war in Bosnia. The situation there suggests that decisions on self-determination need to take account of its effects on state sovereignty and the rights of minorities.

Several international instruments support self-determination as a legal right of peoples and a political aspiration. For example, Article 1(2) of the UN Charter states that the purpose of the UN is to 'develop friendly relations among nations based on respect for the principles of equal rights and self-determination of peoples', while Article 55 refers to 'the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for equal rights and self-determination of peoples'. For many years, these sections of the Charter were interpreted as asserting the right of states to determine their internal affairs without outside intervention. However, ethnic and religious groups have also demanded self-determination in opposition to oppressive rule, and while this has led to the creation of new states in some places, in others it has caused civil wars. As Kamal Shehadi has argued, self-determination has 'the ability to destroy some states and create others'.³⁷ This makes self-determination a serious challenge to sovereignty and security. Shehadi has also argued that since the Cold War ended, the 'wave of ethnic claims to self-determination' has challenged 'the very foundations of the international order and the security of the international system'.³⁸ This is because international order is based on a states system rather than a system of nation-states.

³⁵ *Vienna Convention on Succession of States in Respect of Treaties*, 1978. UN Doc. A/Conf. 80/31, Article 34.

³⁶ Antonio Cassese, *Self-determination of Peoples: A Legal Appraisal* (Cambridge: Cambridge University Press, 1995) p. 1.

³⁷ Kamal S. Shehadi, *Ethnic Self-determination and the Break-up of States*, Adelphi Paper No. 283 (London: International Institute for Strategic Studies, 1993) p. 3.

³⁸ *Ibid.* p. 8.

In some situations, self-determination has resulted in the suppression of individual liberties.³⁹ It was partly for this reason that Morton Halperin and David Scheffer argued that some of the criteria for recognising the right of self-determination needed to include the movement's respect for human rights, the degree of support it enjoys, the potential for violence and historical factors.⁴⁰ For the UN, this means a delicate balancing of the needs of self-determination against the requirements for security, and the respect for state sovereignty.

State sovereignty. Like modern international law, state sovereignty dates back to the Treaty of Westphalia and has evolved with international law and security. International law sets the environment for defining sovereignty while the protection of state sovereignty is one of the goals of security. Indeed, Ayoob defines Third World security largely in terms of state sovereignty.⁴¹ The fact that sovereignty is generally understood at two levels—internal and external—has meant it has implications for international law and security. Internal sovereignty, also known as empirical sovereignty, is predicated on the principle that each state is free to pursue its internal affairs without outside interference. It essentially means that the government of any state has supremacy over the people and resources within its territory, but that it exercises this control with consent and legitimacy from society. This implies that a state which cannot protect its citizens has lost empirical sovereignty. The UN intervention in Somalia from 1992 to 1995 was designed to restore order and rebuild Somali society, but it was also an attempt to restore empirical sovereignty.⁴²

External sovereignty, also known as 'juridical' sovereignty, is based on the notion that the territorial integrity of every state is inviolate. As Ramesh Thakur has argued, it is generally considered to be 'the legal identity of the state in international law, an equality of status with all other states, and the claim to be the sole official agent acting in international relations on behalf of a society'.⁴³ However, juridical sovereignty should be seen as operative only where, and when, empirical sovereignty is intact, because the lack of empirical sovereignty can have significant regional security implications.

In the post-Cold War era, various developments have drawn attention to the relationship between sovereignty and security. Collapsing states like Liberia and Somalia have demonstrated that the nature of internal governance is a significant determinant of regional security, and as a result sovereignty is increasingly being redefined. For example, in early 1995, the Commission on Global Governance argued: 'Sovereignty ultimately derives from the people. It is a power to be exercised by, for, and on behalf of the people of a state'.⁴⁴ This view suggests that a country's sovereignty should be respected only if the people of that state have had an opportunity to exercise their fundamental rights. Developments in international norms and practice have shifted the focus of sovereignty from the government to the people of a state, from the Westphalian precepts to popular sovereignty.⁴⁵

³⁹ Catherine Iorns, 'Indigenous Peoples and Self-determination: Challenging State Sovereignty', *Case Western Reserve Journal of International Law* 24, 2 (1992) pp. 199–348.

⁴⁰ Morton H. Halperin and David J. Scheffer, *Self-determination in the New World Order* (Washington, DC: Carnegie Endowment for International Peace, 1992) pp. 76–80.

⁴¹ Mohammed Ayoob, *The Third World Security Predicament: State Making, Regional Conflict, and the International System* (Boulder, CO: Lynne Rienner, 1995) pp. 1–19.

⁴² See, for instance, Samuel M. Makinda, *Seeking Peace from Chaos: Humanitarian Intervention in Somalia* (Boulder, CO: Lynne Rienner, 1993); and Jonathan T. Howe, 'The United States and the United Nations in Somalia: The Limits of Involvement', *Washington Quarterly* 18, 3 (1995) pp. 49–62.

⁴³ Ramesh Thakur, *The Government and Politics of India* (London: Macmillan, 1995) p. 347.

⁴⁴ Commission on Global Governance, *Our Global Neighbourhood* p. 69.

⁴⁵ For useful analyses of the evolving nature of sovereignty, see Stephen D. Krasner, 'Compromising Westphalia', *International Security* 20, 3 (1995/96) pp. 115–51; and J. Samuel Barkin and Bruce Cronin, 'The State and the Nation: Changing Norms and the Rules of Sovereignty in International Relations', *International Organization* 48, 1 (1994) pp. 107–30.

The growing recognition of popular sovereignty has meant that the relationship between a state and its citizens cannot always remain the preserve of the state. Former UN Secretary-General Boutros-Ghali argued that 'the time of absolute and exclusive sovereignty ... has passed'.⁴⁶ Another former UN Secretary-General, Perez de Cuellar, also argued, in April 1991, that state sovereignty needs to be reassessed in response to 'the shift in public attitudes towards the belief that the defence of the oppressed in the name of morality should prevail over frontiers and legal documents'.⁴⁷ Thus, there is growing support for humanitarian intervention, and the protection of state sovereignty offered by Article 2(7) of the UN Charter is increasingly questioned.

United Nations' practices reflect the law–security symbiosis

The UN has a responsibility to maintain security and, where necessary, establish it through collective measures. Collective security reflects the important relationship between security and international law. Thomas Weiss, David Forsythe and Roger Coate have argued that the central basis of collective security is that 'all states would join forces to prevent one of their number from using coercion to gain advantage'.⁴⁸ In the mid-1960s, Inis Claude argued that collective security depended on assumptions about the nature and causes of war, and suggested that it was 'intended only to forestall the arbitrary and aggressive use of force, not [to] provide enforcement mechanisms for the whole body of international law'.⁴⁹ However, George Downs has defined collective security in terms of punitive action, as a form of self-regulation which occurs when 'a group of states attempts to reduce security threats by agreeing to collectively punish any member state that violates the system's norms'.⁵⁰ The above perspectives describe collective action in terms of international society's rules, which brings into focus international law.

However, if Claude, Downs, Weiss and others were correct in describing collective security as action against the offending 'state', how can the UN intervention in Angola, Bosnia, Cambodia, Rwanda and Somalia be explained? How can a theory based on the assumptions about state behaviour be used to explain the conduct of non-state actors in a civil war? The types of wars in which the UN is expected to intervene have changed, and this means collective security needs to be redefined.

Recasting collective security. I define collective security as a mechanism through which international society takes economic, diplomatic or military measures to protect its vital norms, institutions, values, and principles. The threats to these values can range from military aggression, such as the 1990 Iraqi invasion of Kuwait, to the violation of international treaties and conventions, like North Korea's attempt to circumvent the Non Proliferation Treaty in the mid-1990s. In theory, collective security is premised on the assumption that all victims of military aggression are equally important and that all breaches to international security have to be opposed. Collective security measures generally conform to commonly shared rules and procedures, and often confirm the potency of international law.

⁴⁶ Boutros Boutros-Ghali, *An Agenda for Peace*, 2nd edn (New York: United Nations, 1995) p. 44.

⁴⁷ *UN Press Release*, SG/SM/4560 (24 April 1991).

⁴⁸ Thomas G. Weiss, David P. Forsythe and Roger Coate, *The United Nations and Changing World Politics* (Boulder, CO: Westview, 1994) p. 21.

⁴⁹ Inis L. Claude Jr, *Swords into Plowshares: The Problems and Progress of International Organization* (New York: Random House, 1964) p. 249.

⁵⁰ George W. Downs (ed.), *Collective Security Beyond the Cold War* (Ann Arbor, MI: University of Michigan Press, 1994) p. 18.

For collective security to take place, there must be at least five factors: a set of principles and norms which are shared by states and other international actors, a political entity which has violated or threatens to violate the commonly-shared norms and principles, the military or economic capacity with which international society can assume joint action, the political will to carry out the measures, and a clear legal framework. A legal framework is vital because some recent UN military operations have been legally eclectic, thereby complicating the position of troops on the ground.

Article 51 of the UN Charter authorises member states to undertake collective self-defence 'to maintain or restore international peace and security'. However, self-defence has to be sustained only until the Security Council takes the necessary measures to restore order. Once the Council has determined that there is a threat to international security, as stipulated in Article 39, it can authorise mandatory economic sanctions, as stipulated in Article 41, or military measures, according to Article 42. Military action can take place under UN command or can be contracted to a state or group of states. Article 1(1) of the UN Charter defined the primary task of the UN as the maintenance of peace and security through collective action. The principal organ for executing this function is the Security Council, which comprises five permanent members with a veto power (China, France, Russia, the United Kingdom and the US) and ten rotating members on two-year terms. However, as Thakur has argued, this collective function has been difficult to attain due to three factors: 'an intrinsic tension in the notion; the veto clause; and the Cold War'.⁵¹

Great powers determine collective action. Just as the enforcement of international law is often influenced by power considerations, the pursuit of collective security is largely determined by the great powers. During the Cold War, collective security was frustrated by the antagonism between the USSR and the US, and their frequent use of the veto power to protect their interests and those of their allies. However, as Adam Roberts has argued, one of the positive consequences of this veto power is that 'it may have saved the United Nations from being saddled with commitments which the great powers were not willing to support'.⁵²

Since the Cold War ended, the Security Council has imposed economic sanctions against Iraq, Libya, Somalia, Sudan, and Yugoslavia. It has also despatched peacekeeping operations to Bosnia, Cambodia, Rwanda, Haiti, Mozambique, and Somalia. It later sent enforcement operations to Bosnia and Somalia under Chapter VII. However, collective security has sometimes been hampered by the West's dominance of the Security Council. The US, the UK and France have dominated the Council and used it to deal more readily with anti-Western states than other countries. As N.D. White has argued, the Security Council 'in its current period of relative Western domination, is not truly fulfilling the ideal of collective security, which requires the *impartial* enforcement of community norms'.⁵³ Similarly, Samuel Huntington has discussed how the Western domination of the Council influenced its speedy resolutions on Iraq over the invasion of Kuwait, and Libya over the refusal to hand over suspects of the Lockerbie bombing and concluded: 'The West in effect is using international institutions, military power and economic resources to run the world in ways that will maintain Western predominance, protect Western interests and promote Western political and economic values'.⁵⁴

⁵¹ Ramesh Thakur, 'UN Peacekeeping in the New World Order' in Ramesh Thakur and Carlyle A. Thayer (eds), *A Crisis of Expectations: UN Peacekeeping in the 1990s* (Boulder, CO: Westview, 1995) p. 4.

⁵² Adam Roberts, 'From San Francisco to Sarajevo: The UN and the Use of Force', *Survival* 37, 4 (1995-96) p. 9.

⁵³ N.D. White, *Keeping the Peace: The United Nations and the Maintenance of International Peace and Security* (Manchester: Manchester University Press, 1993) p. 28.

⁵⁴ Samuel P. Huntington, 'The Clash of Civilizations?', *Foreign Affairs* 72, 3 (1993) p. 40.

Security Council members often take into account strategic, economic and political factors before committing themselves to collective action. As Weiss, Forsythe and Coate have observed: 'States have numerous narrow national interests that they are reluctant to see overridden in the name of peace or justice'.⁵⁵ This tension between collective action and national interests has been at the core of the UN since its inception. Consequently, the UN has been effective in enforcing international law and security only where the interests of the great powers have not been threatened. When the national goals of the great powers override the security concerns of international society, UN decisions cease to be collective. While the convergence of objectives among the great powers facilitated the UN's work in Angola, Cambodia and Iraq, their conflicting interests frustrated UN operations in Somalia and Bosnia. Unfortunately, no one has found a successful formula for reconciling national interests with collective security.

As an institution created to authorise collective measures on behalf of UN members, the Security Council is theoretically expected to take account of constitutional limitations in the UN Charter, the legal restraints in the mandate for each force and constraints derived from international law. However, very often it is the short-term political goals and economic constraints that determine the nature of UN operations.

The future looks fluid

The symbiosis between international law and security have been reflected in the evolution of international society and many of its concepts and norms, including sovereignty, human rights, self-determination, the laws of war, arms control and collective security. International law has been shaped by war and conflict, by perceptions of anarchy and the desire for order and security, and by the national interests of the great powers. The law has, in turn, provided the rules which govern the conduct of war, the peaceful settlement of disputes, the control of dangerous weapons systems, the exploitation of the sea resources and the respect for state sovereignty and human rights. International law has also provided a mechanism through which states can succeed one another in respect of international treaties.

All these factors have strong repercussions for international security. The banning of nuclear tests, the effective control of nuclear proliferation, and the abolition of chemical and biological weapons, can be both legal and strategic issues of great significance. War and law are so closely interrelated that very often strategic decisions take into account international values, norms and legal requirements. State succession might appear to be a straightforward legal issue, but under certain conditions it can have a significant security impact. At the same time, economic power and military capability have a strong bearing on the evolution of international law and security, but this influence has not been adequately investigated.

As the economic and military power configurations in international society are in constant flux, future research needs to explore the extent to which Western countries will continue to influence international law and security. It is the countries which are perceived to possess the greatest political, economic and military power that determine when to emphasise security in relation to international law, and how to regulate the use of military force. In the past, Western countries have projected their military power in many parts of the world, shaped the patterns of industrialisation and economic development, and influenced perceptions of international security and the development of international law. However, some of the Western values, such as sovereignty and non-intervention in domestic matters are now held more firmly by Third World leaders than by Western leaders.

⁵⁵ Weiss, Forsythe and Coate, *The United Nations and Changing World Politics* p. 24.

The upward mobility of Asian and other Third World states in the economic and military fields could mean a downward slide for some Western countries, and might have repercussions for international law and security. Indeed, in the coming decades, some Third World countries might reach parity with, and probably overtake, some of the major Western states in economic and military capability. Some of the questions for future research on international law and security, therefore, need to investigate the increasing economic power and military potential of Asian and other Third World states and in what ways they might influence the evolution of international law and security.

Global Governance 11 (2005), 185–203

Human Security: A Challenge to International Law?



Gerd Oberleitner

The concept of human security, which emerged in the 1994 UNDP Development Report, is on its way to changing the practice and institutions of global governance. The underlying issues of human security—a focus on the individual, the waning of state sovereignty and the rise of new actors, the shift in our understanding of security, the need and risks of “saving strangers” through humanitarian intervention, the reform of the Security Council, the conduct of complex peace missions, and the adequate reaction to new threats—pose a challenge to international law. As a value-based and people-centered approach to security, human security will contribute to normative changes in the international legal order. **KEYWORDS:** human security, international law, United Nations, state sovereignty, humanitarian intervention.

Human security has become a catchphrase in the global debate on the changing meaning of security. Over a period of ten years, the concept of human security has begun visibly to influence, change, and challenge global politics, institutions, and governance. Although the idea of human security was preceded by similar concepts in reports of global commissions—the Palme Commission,¹ the Brandt Commission,² the Brundtland Commission,³ and the Commission on Global Governance⁴—human security as a distinctive new concept was created and shaped by Mahbub ul-Haq in and around the 1994 UNDP Development Report.⁵ Soon afterwards, the Canadian government took up the idea of human security and formulated it as a foreign policy priority.⁶ On the initiative of Canada and other countries, the Human Security Network was created as a coalition of the like-minded with the aim of advancing human security globally.⁷ Japan has taken an interest in human security and supports a variety of initiatives.⁸ The Commission on Human Security,⁹ set up in 2001 and cochaired by Amartya Sen and Sadako Ogata, has concluded its work and published its final report.¹⁰ The UN Trust Fund for Human Security was established in 1999.¹¹ In 2003, UN Secretary-General Kofi Annan set up the Advisory Board on Human Security,¹² and a Human Security Branch has been established in the UN Office on Drugs and Crime in Vienna.¹³

The concept has also attracted the interest of the academic community. Institutes, centers, programs, and certificates on human security have been established.¹⁴ An increasing number of publications on human security now make their way into libraries.¹⁵ A news bulletin on human security is being published regularly.¹⁶ Conferences, seminars, and workshops produce an ever greater number of academic papers on human security.¹⁷ An annual human security report, edited by the Centre for Human Security at the University of British Columbia, begins publication in 2005.¹⁸

Different from other academic disciplines, international law has been reluctant to respond to the rise of human security, and the potential of human security as a possible global normative framework has attracted less attention. In order to analyze the impact of human security on the global agenda, the normative underpinnings of the concept and the consequences of its application in policymaking for the international legal order deserve to be looked at in more detail. Are human security concerns already covered by international law? Is it nothing new to international law at all, or is human security a challenge to international law? If human security is nothing new to international law, where has it been hiding? If it is a challenge, what areas of international law are affected? Do we wish to accommodate the concept of human security in international law and, if so, how? How would a human security approach affect lawmaking, law enforcement, and international institutions? If we wish to pursue a human security agenda on the global level, is international law the appropriate tool for fostering human security, or is it in its present state an obstacle? In the following sections, I address some of these questions and demonstrate that human security as a policy and normative ideal does indeed pose a challenge to international law. My analysis focuses on some key areas of international law that seem particularly prone to be viewed through the lens of human security and on the UN as the core institution of the international legal order. I argue that although many of the underlying concerns of the human security concept are by no means new to international law, a human security approach to international law can reinforce and strengthen attempts to bring international law better into line with the requirements of today's world. In order to do so, a brief analysis of what we mean by human security is required.

What Is Human Security?

A decade after its emergence, human security remains a contested concept in its definition, its scope, and its utility. Proponents see it as a timely, necessary, and helpful expansion of traditional security concerns and as

either a paradigm shift and dramatic departure from traditional security concepts¹⁹ or a useful tool for shaping foreign policy.²⁰ In this respect, former Canadian minister of foreign affairs Lloyd Axworthy set the stage when he outlined the Canadian answer to the question of the changing meaning of security.²¹ Although some authors question the usefulness of human security as a foreign policy tool, they acknowledge the role of human security in conveniently grouping together and collectively pushing a wide range of initiatives centered on people rather than on the state. They see human security as a useful *chapeau* that covers a new field of academic debate on security issues in the light of various disciplines.²²

At the same time, the concept has been rejected as far too universalistic. Critics have pointed at conceptual flaws and have argued that securitizing issues (and the human being itself) does not serve the victims of insecurity but rather creates false priorities and hopes.²³ Human security has been regarded as a concept that cannot meaningfully be reflected in practice, and it has been argued that none of the initiatives on the human security agenda are new.²⁴ Human security has been viewed as being contrary to the national interest of states and as weakening foreign policy choices, because it would seem to open the way to justifying humanitarian intervention or to forcing states into undertaking actions abroad that are against their national interests.²⁵ Some authors have also echoed the fear that human security might become an ideological instrument.²⁶

Obviously, much depends on how human security is defined. Definitions range from narrow concepts focusing on physical integrity to a broad understanding that also encompasses psychological and emotional aspects of security.²⁷ The Commission on Human Security—arguably the most wide-ranging and in-depth attempt to explore the concept—has defined human security as “protecting the vital core of all human lives in ways that enhance human freedoms and human fulfillment.”²⁸ Sadako Ogata and Johan Cels have elaborated on this definition: “This means protecting vital freedoms—fundamental to human existence and development. Human security means protecting people from severe and pervasive threats, both natural and societal, and empowering individuals and communities to develop the capabilities for making informed choices and acting on their own behalf. ‘Vital freedoms’ refer to the inalienable fundamental rights and freedoms that are laid down in the Universal Declaration of Human Rights and other human rights instruments.”²⁹

Although there is no commonly accepted definition of human security, roughly three categories seem to emerge:³⁰ a narrow approach that relies on natural rights and the rule of law anchored in basic human

rights; a humanitarian approach that understands human security as a tool for deepening and strengthening efforts to tackle issues such as war crimes or genocide and finally preparing the ground for humanitarian intervention; and a broad approach that links human security with the state of the global economy, development, and globalization. In addition, a “regionalization” of the discussion seems to have taken place, which includes subregional and intrastate security situations being analyzed from a human security perspective.³¹ More importantly, human security can be understood in very different ways:³² as a political agenda for governments; as a rallying cry that unites ad hoc or sustained coalitions of states on single issues; as a common concern that brings together single-issue civil society groups under a uniting umbrella; as an academic problem; as a new research category; or as an emerging normative framework in international relations. It is the latter that is of interest here.

As a political agenda, the concept of human security has been shaped and applied on both the national and the intergovernmental level. The great strength of human security as a political agenda for global governance seems to lie in the fact that implementing it “requires overcoming the compartmentalization of security, humanitarian, human rights, and development strategies by focusing on the protection and empowerment of people.”³³ In its rhetoric, its policies, and its actions, the UN seems increasingly to accept and to rely on human security as part of its agenda. UN Secretary-General Annan has frequently endorsed human security as a central issue for the UN: “Ensuring human security is, in the broadest sense, the United Nations’ cardinal mission.”³⁴ On the national level, the Canadian activities and leadership in human security as well as the position of the Japanese government provide an experimental ground for human security as a foreign policy tool.³⁵ In this respect, Lloyd Axworthy has defined human security as,

in essence, an effort to construct a global society where the safety of the individual is at the centre of the international priorities and a motivating force for international action; where international human rights standards and the rule of law are advanced and woven into a coherent web protecting the individual; where those who violate these standards are held fully accountable; and where our global, regional and bilateral institutions—present and future—are built and equipped to enhance and enforce these standards.³⁶

As a rallying cry or catalyst that brings together like-minded countries, the concept has led to the creation of the Human Security Network,

a cross-regional and loose matrix of thirteen countries with the aim of fostering human security in international affairs.³⁷ Human security has also been taken up by civil society organizations and has led to the creation of civil society networks, bringing together otherwise unconnected nongovernmental organizations (NGOs). The Coalition for the International Criminal Court³⁸ and the International Campaign to Ban Landmines³⁹ are but two examples. More recently, the African Human Security Initiative has drawn together African NGOs with the aim of assessing the human security performance of African governments.⁴⁰ Human security is also increasingly used by national NGOs to bring together single-issue concerns and thereby create a holistic framework for action.⁴¹

Viewed as an academic problem, the concept of human security has led to a vivid discussion among scholars and has met with approval and critique from various academic disciplines. Academic articles, mostly from the social sciences, from international relations theory, and from defense, security, and peace studies, dwell on conceptual issues and struggle with placing the concept in the framework of the respective discipline.⁴² International law has been largely silent, although the concept might well have considerable impact on its future development in some of the following key areas: the understanding of security in international law; the place of human security in the UN Charter; the role of the Security Council, state sovereignty, and humanitarian intervention; the creation of new norms; and the place of nonstate actors in international law. Although human security has left traces in these areas, the challenge to international law might well reach further and comprise both international law as an operating system (that is, its role as a “constitution” for international society) and the normative system (that is, the values and goals international law considers worth pursuing).⁴³

The Changing Meaning of Security

In international law, security has traditionally been understood as national or state security—that is, the security of states as the primary subjects of international law, based on territorial integrity and sovereignty, as formulated in the UN Charter.⁴⁴ The maintenance of international peace and security, as laid down in Article 1 of the charter, presupposes the territorial integrity and political independence of states. With the introduction of collective security in 1945, security was internationalized, allowing states—under Chapter VII of the UN Charter—to act collectively and, if necessary, with the use of force to uphold or

restore international peace and security. National or state security and its offspring, collective security, have continued to dominate the international legal order. The concept has then been broadened by including nonmilitary threats and by reluctantly including internal violence in collective security and peacekeeping activities. Following these developments, global security and the concern for the survival of mankind entered the agenda. Human security seems to be a next logical step in the development of our ever expanding understanding of security.

Human security challenges our approach to security in at least two ways: it shifts the focus toward the individual, and it bases security firmly on common values. Rather than providing security for abstract entities—the state, the nation—human security focuses on the security—the well-being, safety, and dignity—of individual human beings. In essence it means that there is no secure state with insecure people living in it. Indeed, it seems obvious that in today's world of rising nontraditional, nonconventional, and transnational threats, the protection of borders and the preservation of territorial integrity cannot be the ultimate goal of security. The driving factors of the human security debate, “the constraints on state sovereignty, the mobilization of international civil society in defence of international norms, and the sharing of power between state and non-state actors in a globalizing world . . . leave a clear message: the state is no longer able to monopolize the concept and practice of security.”⁴⁵ The twin forces of globalization and localization make traditional notions of national security look like outdated concepts, and together they call for a rethinking of our understanding of security.⁴⁶

Human security is a concept based on common values rather than national interest. Bringing to the forefront the safety of individuals and communities, and their quality of life and their dignity, allows changes to happen that would otherwise have been shielded behind territorial sovereignty, political independence, and national interest: “It may also be due to the fact that the human security initiative broke through a certain complacency in the international community that had come to accept many things, such as the mindless destruction wrought by landmines, as immune to change.”⁴⁷ What we are witnessing is “an overall shift in the normative context allowing for an evocation of security more consistent with humanitarian concerns.”⁴⁸

What does this mean for state security? In the context of refugee protection, it has been argued that “it is obvious that old paradigms based on the state system must be replaced—or supplemented—by new models. . . . One positive element of the assault on the Westphalian system may be the gradual acceptance by the international community that human security should take precedence over state security.”⁴⁹

However, it would seem overly ambitious to view human security as a substitute for national or state security. Not only will the state continue to be the cornerstone of the international legal order, but there will still be threats that fall within the traditional concept of interstate conflict. Whereas it will remain the goal of state security to provide protection from external aggression or military attack, a human security approach means that providing within the state an environment that allows for the well-being and safety of the population is an equally important goal. The challenge is “to shape a security paradigm that captures the need to reach out in defence of people as well as states, and that can orchestrate and steer our endeavours in both directions.”⁵⁰ What human security does is to reduce the concept of state security from the overarching concern of international law to just *one* possible concept of security. Human security then complements state security and better defines the aim of state security—to protect the people, and not an abstract entity, as the ultimate purpose of security. In doing so, human security has a twofold impact on military operations: it gives priority to the protection of people over pursuing military objectives, and it puts limitations on warfare that go beyond the constraints of international humanitarian and human rights law.⁵¹ Military operations for the purpose of enhancing human security will therefore have to allow for more scrutiny on whether the means are adequate to the end. Certainly, such a development finds its critics among policymakers and academics alike.⁵²

Two Concepts in the UN Charter

The main aim of the UN is to maintain world peace and security, as laid down in Article 1 of the UN Charter. Clearly the charter, as an international legal document adopted by states for the purpose of regulating interstate relations, is concerned with the security, maintenance, stability, and survival of a state-centered international order. Territorial integrity, sovereign equality, political independence, and noninterference in internal matters are the cornerstones and principles of the UN, as laid down in Article 2 of the charter. From the very beginning, however, a second fundamental concept in the charter, the protection of human rights, as contained in Article 1.3 (“promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion”), has challenged this vision. The question as to which of the two principles should prevail when they are in conflict with each other was answered during the Cold War in

favor of territorial integrity and nonintervention. The last decade has brought along significant changes and has led to a new, as yet fragile, balance of the two concepts.

Looking at these two fundamental pillars of the UN Charter from the perspective of human security, I follow the opinion of authors such as Errol Mendes⁵³ in viewing human security as a concept that has the potential to reconcile these two conflicting principles of the UN Charter. The values behind territorial integrity and the protection of human rights are not incompatible, and human security brings back the idea that the security of the state has to be seen alongside the security of the individual.⁵⁴ Whereas human security issues have—to some extent—always been on the UN agenda in all but name (for example, peacekeeping, human rights, refugee flows, and environmental issues⁵⁵), “the commitment to human security underlines much of the United Nations action in the areas of peace and security, humanitarian assistance, crime prevention and development, among others.”⁵⁶

Institutional Changes: Toward a New Security Council?

Implementing a human security agenda and integrating human security in the work of global and regional intergovernmental organizations requires institutional changes—“building protective and empowering infrastructures.”⁵⁷ Thus, human security certainly challenges the international institutional order and the law of international organizations, above all the Security Council.

A Security Council that applied the concept of human security would look different from the Security Council we know now, particularly with regard to decisionmaking processes, operating methods, tools available, transparency, and accountability. Although the Security Council as it stands seems to be more an obstacle to fostering human security than a mechanism for enhancing it, attention has been drawn to the activities of the Council, such as in Sierra Leone, as an interesting example of how parts of the human security agenda are slowly making their way into the system of collective security.⁵⁸ Applying a human security agenda to Security Council reform, however, must go beyond attempts to streamline the Council’s work, increase the number of members, or bring changes to the Council’s veto mechanism and to the role of the Permanent Five (P-5).⁵⁹ The Security Council’s interpretation of the charter must rest on the principle that international security is threatened when the security of individuals is threatened. Canada took on this challenge and introduced human security concerns into the work

of the Security Council during its membership in the Council (1998–2000). As a consequence, the Council focused on issues such as the protection of civilians in armed conflict (SC Res. 1296) or the trafficking in small arms and “blood diamonds” in Angola.⁶⁰

Back in 1999, Mahbub ul-Haq proposed the creation of the Human Security Council that would have three principal goals: to provide leadership in tackling global economic crises; to establish comprehensive early-warning mechanisms for internal conflicts of a military and non-military nature and the ability to suggest intervention in such cases; and to strengthen the UN development system. Mahbub ul-Haq refuted as too marginal the suggestion to reform the existing institutional framework by simply upgrading the UN Economic and Social Council (ECOSOC) or by assigning new tasks to the Security Council.⁶¹ One might dismiss this proposal as unrealistic and utopian. Yet accepting a human security–based approach to Security Council reform will not only be a strong driving force in this direction but will also be essential if the Security Council is to be transformed into a meaningful instrument to react to the security challenges of the twenty-first century.

Changes in the institutional order will have to go beyond reforming the Security Council alone. Replacing traditional thinking on security by human security will demand the development of a wider range of instruments, increased cooperation, and more soft power—for example, in the form of conflict prevention. The use of force would have to shift more and more from unilateral use of military force to a more concerted and multilayered use of force, of which military action would be only one option. International policing and monitoring and cooperation with local security agents and with civil society would, in this model, become more important.

State Sovereignty and Humanitarian Intervention

In his analysis of the relationship between territorial integrity and human security, the UN under-secretary-general for legal affairs, Hans Correll, concludes that human security and the sovereign state are not incompatible, because “human security is best guaranteed in the sovereign state which is governed under the rule of law with full respect for the human rights and the fundamental freedoms of those who reside in its territory.”⁶² This is certainly a cautious approach to human security, and it goes without saying that a broader understanding of the concept will challenge state sovereignty more fundamentally. Again, this is nothing new to international law. Academic writing has constantly revolved

around the notion of sovereignty in international law. To give but one example, the Organization for Security and Cooperation in Europe (OSCE), in promoting human rights and democracy (the “human dimension”), long ago initiated a shift from noninterference toward a community-oriented approach on the regional level, combining security issues with humanitarian questions. In a well-known contribution to the debate on sovereignty, UN Secretary-General Annan has described the shift from territorial sovereignty to individual sovereignty in the following terms:

State sovereignty, in its most basic sense, is being redefined—not least by the force of globalisation and international co-operation. States are now widely understood to be instruments at the service of their peoples, and not vice versa. At the same time, individual sovereignty—by which I mean the fundamental freedom of each individual, enshrined in the charter of the UN and subsequent international treaties—has been enhanced by a renewed and spreading consciousness of individual rights. When we read the Charter today, we are more than ever conscious that its aim is to protect individual human beings, not to protect those who abuse them.⁶³

Although the number of intrastate conflicts has long since overtaken the number of interstate conflicts, the Security Council has managed only in an inconsistent and unpredictable way to extend the meaning of international peace and security to cover conflicts within states. Even though interstate conflicts will remain an important concern of international law, intrastate conflicts will have to be treated with the same emphasis. Taking the human security approach seriously will thus inevitably have an impact on the ongoing discussion to establish principles for humanitarian interventions. Humanitarian intervention has already been described as the most extreme form of promoting human security,⁶⁴ and military intervention in Kosovo has been viewed as the “first human security war” where “security, force and power are intimately linked.”⁶⁵ This is certainly highly debatable, because the means used in the NATO air strikes against Yugoslavia reflected warfare with the aim of destroying military capability and of bringing down the Milosevic regime rather than directly providing human security to Kosovo.⁶⁶

Nevertheless, human security is interventionist by nature. As a concept of security based on values, it extends the security obligations of states beyond their borders. Under a human security concept, the use of force would be applied for more “cosmopolitan”⁶⁷ goals—to manage human security threats. This line of thinking has been further expanded

in the Report of the International Commission on Intervention and State Sovereignty (ICISS), set up in 2000 on the initiative of Canada.⁶⁸ The commission presented its report in December 2001; a chapter of the report is devoted to human security.⁶⁹ In analyzing the relationship between state sovereignty and humanitarian intervention, the commission plead in essence for shifting the discussion away from a “right to intervene” toward a “responsibility to protect”; and it roots this proposal firmly in the broader concept of human security.⁷⁰ At the same time, the point has been made that taking human security seriously could lead to a fatigue and overstretch of the very notion of intervention.⁷¹

Norm Creation

The Ottawa convention banning landmines, the statute of the International Criminal Court, and the protocol to the Convention on the Rights of the Child (on child soldiers) are “human security treaties,” both for their substance and in relation to the process of norm making. With regard to the subject matter dealt with in these treaties, Rob McRae observes that “the use of landmines, the commission of war crimes, or the conscription of child soldiers were previously veiled from international scrutiny by the claims of state sovereignty. This is increasingly no longer the case.”⁷² In this sense, human security concerns are already shaping international legal documents. Moreover, the processes leading to the adoption of these documents prove the new trend of civil society actors, states, and intergovernmental organizations working together in a “coalition of the willing.”

When human security starts penetrating the field of international norm making in a more persistent way, the documents resulting from these processes will possibly better reflect the balance between the concepts of state sovereignty and concern for the individual. Other examples being cited for such lawmaking processes are the Convention Against Transnational Organized Crime and its protocols dealing with trafficking in firearms, smuggling in aliens, and trafficking in persons, and authors have tried to trace the influence of the human security debate on the adoption of these documents.⁷³ Human security also allows, or facilitates, the drafting of documents that see the broader picture and bring together separate areas of international law. Such is the case with Security Council Resolution 1325 (2000), on women in armed conflict, which links a gender perspective on human security with issues such as human rights and humanitarian law, international criminal law,

refugee law, concern for the spread of HIV/AIDS, and UN peacekeeping activities in a holistic framework.

New Actors in International Law

An ever increasing variety of actors participate in global affairs. The international legal order does not remain untouched by this development; to the contrary, nonstate actors have an impact on the various fields that international law is dealing with, such as security, environment, human rights, humanitarian law, and international economic law. Nonstate actors participate in the creation and application of international norms. At the same time, the question of the accountability of nonstate actors in international law is largely unresolved. If human security contributes to the further erosion of the fiction that the state is the sole master of international law, then better describing and defining the role of nonstate actors seems a central task ahead. Nonstate actors and human security are linked in two ways: nonstate actors can pose a threat to human security, but they can also contribute to human security. Attention has been drawn to the role of the national security sector as both a threat and a provider of human security.⁷⁴ Nowhere is the important role of support and training in human security, human rights, and humanitarian law more visible than in the case of national security services. Corrupt and unaccountable security institutions are a cause for human insecurity and state failure. However, in a human security concept, military and police are not the only providers of security. Humanitarian organizations, civil society movements, and development organizations might be considered important if not equal actors of security, such as in the case of humanitarian crisis.⁷⁵ In his article on armed groups in intrastate wars, Claude Bruderlein has analyzed how nonstate actors can heighten or lessen human security.⁷⁶ In the case of failed states, nonstate actors remain the only ones to bring about human security.⁷⁷

Nonstate actors will gain more importance with the introduction of human security. Achieving and monitoring the compliance of armed groups with emerging norms of human security (or with established norms in humanitarian and human rights law) is one example. The campaign leading to the adoption of the landmine convention is often quoted as an example for a new form of partnership between governments and civil society. Within the framework of a human security-centered international system, we will witness more of such interest-driven, ad hoc coalition building among states, NGOs, intergovernmental organizations, the business community, and others.

Conclusion

We are beginning to explore the potential and value of the concept of human security. As a political strategy or agenda it is already well on the way to changing institutions and the practice of global governance. The underlying issues of human security are not new to international law. These issues include a focus on the individual; the waning of state sovereignty and the rise of new actors; the shift in our understanding of security; the need and risks of “saving strangers” through humanitarian intervention; the reform of the Security Council; the conduct of complex peace missions; and the need for an adequate reaction to new threats. Using human security as a more comprehensive and integrative way to look at these issues is the root of the challenge to international law.

International law and its institutions have acquired a certain degree of experience in some of the areas of the human security agenda. The UN Charter as the principal document in international law offers space for both the security and the human aspects of the concept—concern for security as a concept based on the sovereign state and concern for the fate of the individual human being. Human security brings into focus the question of how we can place the security of the individual on the same level as the security of the state. Human security challenges international institutions and the law of international organizations, first and foremost with regard to the future role of the Security Council, which is faced with the task of finally breaking away from post-World War II constraints and moving toward a system of guarantees for the security of individuals that is more comprehensive, consistent, and predictable than at present. A human security approach might lead to the creation of new instruments for conflict prevention and conflict management. The human security debate will have repercussions for the role of nonstate actors in international law as both providers of and a threat to human security. It will allow international law to reflect better the realities of today’s world, which comprises a multitude of actors.

Human security has the potential to bring together fields that have traditionally been kept apart—human rights, humanitarian affairs, development, security, and others. International human rights law, humanitarian law, the law governing people on the move, and the international law on combating terrorism could be priority areas of concern for a human security approach to international law. The close, yet not fully explored, relationship between human security and human rights and the possible mutual enrichment between the two deserves more attention.⁷⁸ The way in which human security can help fill the problematic gap between humanitarian law and human rights law in situations

of armed conflict is another avenue of research.⁷⁹ Human security certainly is a concept of particular importance for people on the move, who are by their very nature insecure: refugees, asylum seekers, migrants, internally displaced people, and trafficked persons.⁸⁰ Finally, considering international terrorism as a threat to human security rather than as a reason for waging an all-out, indefinite war should allow for a more responsible and measured way to make the world a safer place.⁸¹

Human security—as both an academic concept and a political agenda that takes up, reinforces, and underlines ongoing developments in international law—has the potential to become a new organizing principle of international relations. In this respect, human security seems to be a natural step in further moving international law beyond being concerned with national security toward including the fate of individuals as the ultimate beneficiaries of law. As a value-based approach to security with a focus on the individual as the ultimate beneficiary of international law, human security will continue to contribute to normative changes in the international legal order. 🌐

Notes

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32. This categorization follows and expands on Paris, "Human Security," p. 102.

33. Ogata and Cels, "Human Security," p. 276.

34. Kofi Annan, in a statement delivered to the Foreign Affairs Committee of the Chinese People's Political Consultative Conference in April 1998, available online at www.un.org/Pubs/chronicle/1998/issue1/0198p3.html (accessed 3 August 2004).

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39. See www.icbl.org (accessed 3 August 2004).
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The Illusion of UN Security Council Reform

Can changing the membership or procedures of the United Nations Security Council improve its credibility? In the controversy surrounding a possible UN *imprimatur* for the use of force against Iraq, the debate over the council's credibility shifted from the question of adequate representation to whether the group can constrain U.S. power. Now, the obstacles to Security Council credibility go beyond issues of process—exclusive permanent membership and the right to veto—to include unparalleled U.S. military might. With the exception of the 1965 expansion from 11 to 15 members, efforts at Security Council reform since the organization's inception in 1945 have repeatedly proved implausible; today, uncontested U.S. power makes such efforts largely irrelevant.

At the same time, in choosing among available tactics and strategies, Washington should think twice about acting alone. Making better use of the Security Council in its current form—indeed, of the UN system more broadly—is usually in U.S. interests and should remain the preferred policy option.

The Historical Failure of Reform

The principle of UN Charter reform, which includes altering everything from institutional purposes and structures to more mundane operating procedures, retains salience for diplomats in New York as a formal agenda item as well as an informal and enduring cocktail party pastime. In practice, however, substantive and substantial reform has proved virtually impossible. In fact, only three amendments have been made to the UN Charter in almost 60 years—and all dealing only with seat numbers in two of the six principal

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The Washington Quarterly • 26:4 pp. 147–161.

organs, once for the Security Council and twice for the United Nations Economic and Social Council. Use of the term “reform” is applied often and far more broadly than constitutional changes to UN policy; for example, at the outset of their terms, UN secretaries general routinely initiate so-called reform measures that merely involve personnel changes and management shell games.¹

**In practice,
substantive and
substantial reform
has been virtually
impossible.**

The history of reform efforts geared toward making the Security Council more reflective of growing UN membership and of changing world politics since the organization’s establishment conveys the slim prospects for meaningful change. UN founders deliberately divided member rights and roles by establishing a universal General Assembly with the most general functions and a restricted Security Council with executing authority for

maintaining the peace—unanimity among the great powers was a prerequisite for action. This arrangement was designed to contrast with the Council of the League of Nations, a general executive committee for all of the organization’s functions that failed miserably in the security arena because it required agreement from all states. Eternal seats for the era’s great powers—the United States, the Soviet Union, France, the United Kingdom, and China—now known as the Permanent 5 (P-5) with the right to veto decisions of substance, was an essential component of the original 1945 deal.

At the San Francisco conference where the UN Charter was drafted, delegates who were dissatisfied with a revival of a kind of nineteenth-century Concert of Europe—with more powerful states given special roles—but also did not wish to impede the effective creation of the new world body expected that a review conference for all UN member states would be convened relatively quickly to discuss changes in the charter and organizational structures. Although Article 109 reserved the possibility of a General Conference “for the purposes of reviewing the present Charter,” the P-5 preferred setting the bar high for any changes.² They not only resisted efforts to convene such a conference but also clearly communicated their intention to safeguard their veto rights. The increasing polarization of UN member countries during the Cold War in the 1950s prevented such a gathering then, and none has been convened since.

As originally defined in the UN Charter, the composition and decisionmaking procedures of the Security Council were increasingly challenged as membership steadily and dramatically grew following the acceleration of decolonization. Between the UN’s establishment in 1945 and the end of the

first wave of decolonization in 1963, the number of UN member states swelled from 51 to 114. Only six countries from Africa and Asia were UN members originally, while two decades later, more than half of the UN's membership were from these two developing continents. As a result, these newly decolonized countries demanded a better reflection of their numbers and priorities in the Security Council and throughout the UN system.

Most governments rhetorically support the mindless call for equity, specifically by increasing membership and eliminating the veto. Yet, no progress has been made on these numerical or procedural changes because absolutely no consensus exists about the exact shape of the Security Council or the elimination of the veto. True, the council does not reflect the actual distribution of twenty-first-century power, yet reform proposals emanating from diplomats and analysts have never addressed the true imbalance between seats at the table and actual military capacity outside of the Security Council chamber. They have sought to address, instead, the imbalance between the total number of countries in the world and Security Council membership as well as to dispute the absolute veto right held by five countries.

A Security Council of 21 or 25 members would hardly improve effectiveness.

The only significant reform of the Security Council came to pass in 1965, after two-thirds of all UN member states ratified and all five permanent members of the Security Council approved Resolution 1990 (adopted by the General Assembly in December 1963) which proposed enlarging the Security Council from 11 to 15 members and the required majority from 7 to 9 votes. The veto power exclusively reserved for the P-5 was left intact.

The question of whether the Security Council should reflect the growing membership of the UN, let alone the lofty language of the UN Charter's Article 2, emphasizing "the principle of the sovereign equality of all its Members," resurfaced in the 1990s, paradoxically, as a by-product of the initial successes of the Security Council in the early post-Cold War era. The P-5 countries, increasingly on the same wavelength, reached consensus privately before going to the Security Council as a whole on a range of issues.³ Yet, the logic of the axiom "if it ain't broken, don't fix it" gave way to grumblings about representation. Again, the argument for expansion was linked to equity, not to practical impact.

A series of decisions about beefed-up peacekeeping operations in areas that had formerly paralyzed the council, including several flash points of former East-West tensions (Afghanistan, Namibia, Kampuchea, and Nicara-

gua) and the end of the Iran-Iraq War, seemed to usher in a new era of Security Council activism and UN authority for decisionmaking about international peace and security. Such decisions set precedents for the council to take action against Iraq for its invasion of Kuwait in 1991 and then to override Iraqi sovereignty by providing succor to the Kurds and imposing intrusive measures on the regime in Baghdad.⁴

Suddenly, the Security Council was acting as had been originally intended. Sovereignty was no longer sacrosanct.⁵ Excluded countries wanted a part of the action, to defend their own viewpoints from the risk of being ignored by a new sort of P-5 condominium. Moreover, consensus was the order of the day and casting vetoes appeared unseemly and anachronistic; only 12 substantive vetoes were invoked between January 1990 and June 2003 in contrast to the 193 over the preceding 45 years.⁶

In January 1992, newly elected Secretary General Boutros Boutros-Ghali began his term with the first-ever summit of the Security Council and shortly thereafter published his bullish *An Agenda for Peace*,⁷ which spelled out an ambitious agenda for the UN's role in the maintenance of international peace and security. In looking ahead to the UN's half-century anniversary in 1995, a symbolically appropriate moment appeared on the international radar screen. "Was it not time to restructure the Security Council's composition and revise its anachronistic procedures so that matters of right would take precedence over matters of might," or so went the conventional wisdom and proposals from the 38th floor of 1 UN Plaza and from eminent individuals.⁸

Two Timeless Procedural Obstacles

The logic behind the call in the early 1990s to recognize the changed world by setting aside the veto and doubling the number of permanent Security Council members—with Germany and Japan making particularly strong cases for membership, along with developing-country giants, such as India, Egypt, Brazil, and Nigeria—to reflect the new world order ran into two immediate problems.⁹

THE VETO

Citing the need to avoid conditions that led to the downfall of the League of Nations, the P-5 insisted on having individual vetoes over UN Charter amendments. Article 108 effectively provides each permanent member with a trump card that can overrule any efforts to weaken its formal power, although virtually all of the other 186 member states criticize the veto as in-

equitable.¹⁰ The veto has been and remains an obstacle to reform both because of the P-5's vested interests in preserving power and because no provision in the charter requires them to relinquish this right.

In their pursuit of *raisons d'état*, states use whatever institutions are available to serve their interests. Although arguably the United Kingdom and France as well as Russia are no longer considered major powers, their permanent status with vetoes gives them a substantial voice in international politics. As evidenced by the debate over Iraq, enhancing the Security Council's role is a primary objective of French and Russian foreign policies, giving these countries a say about where and how U.S. military power will be projected so long as Washington works through this framework. The P-5 countries, including the United States, are, in essence, guarding themselves; they will not give up their vetoes easily.

The UN is so consumed with getting the process right that it often neglects the consequences.

MEMBERSHIP

Political paralysis, when it comes to deciding on candidates for either permanently rotating or new permanent seats on the Security Council—the latter with or without vetoes—has further prevented successful Security Council reform. Increasing membership numbers beyond the current 15—5 permanent and 10 nonpermanent members serving rotating two-year terms—seems relatively unobjectionable to promote and reflect greater diversity. At the same time, those more interested in results than in process were quick to point out that a Security Council of 21 or 25 members would hardly improve effectiveness—a “rump” General Assembly certainly would have increased the chances for what one observer poetically called a *Sitzkrieg* over Iraq.¹¹

Moreover, the group would be too large to conduct serious negotiations and still too small to represent the UN membership as a whole. Thus, the apparent agreement about some expansion to accommodate more seats at the table for the clearly underrepresented “global South” does not translate into consensus about which countries would be added.¹²

Even more difficult has been reaching agreement on new permanent members. If dominance by the industrialized countries was the problem, why were Germany and Japan obvious candidates? Would Italy not be more or less in the same league? Would it not make more sense for the European Union to be represented (rather than Paris, London, Berlin, and Rome individually)? How did Argentina feel about Brazil's candidacy? Pakistan about

India's? South Africa about Nigeria's? How did such traditional UN stalwarts as Canada and the Nordic countries feel about a plan that would leave them on the sidelines but elevate larger developing countries, some of which represent threats to international peace and security? Moreover, if the veto was undemocratic and debilitating for the Security Council's work, should this privilege be given to new permanent members? Would that not make the lowest common denominator lower still?

Since its establishment in 1993, the entity with the lengthiest name in the annals of multilateral deliberations—the Open-Ended Working Group on the Question of Equitable Representation and Increase in the Membership of the Security Council and Other Matters Related to the Security Council—risks also setting a record for continuing to go nowhere for the longest period of time. This entity is a microcosm of a perpetual problem in the organization as a whole: the UN is so consumed with getting the process right that it often neglects the consequences.

Beyond Process: Adjusting to a New World

More recently, a third problem has arisen: Washington's emergence as what former French foreign minister Hubert Védrine aptly dubbed the *hyper-puissance*. Bipolarity has given way to what was supposed to be U.S. primacy, but the demonstrated military prowess in the war on Iraq made it crystal clear that primacy was a vast understatement. Scholars discuss the nuances of economic and cultural leverage resulting from U.S. soft power,¹³ but the hard currency of international politics undoubtedly remains military might. Before the war on Iraq, Washington was already spending more on its military than the next 15–25 countries combined (depending on who was counting); with an opening additional appropriation of \$79 billion for the war, the United States now spends more than the rest of the world's militaries combined.¹⁴

With a U.S. global presence as great as that of any empire in history,¹⁵ Security Council efforts to control U.S. action are beginning to resemble the Roman Senate's efforts to control the emperor. Diplomats at UN headquarters have almost unanimously described the debate surrounding the withdrawn resolution before the war in Iraq as “a referendum not on the means of disarming Iraq but on the American use of power.”¹⁶ Complicating the picture further were splits among Europeans about the future design and leadership of the continent, with the EU's Common Security and Defense Policy and NATO joining the Security Council as victims.

Today, there are two world “organizations”: the UN—global in membership—and the United States—global in reach and power. Jostling about UN

Charter reform is a mere distraction. Critics of U.S. hegemony argue that the exercise of military power should be based on UN authority rather than capacity, but in reality, the two concepts are inseparable. As the UN's coercive capacity is always on loan, UN-led or UN-approved military operations take place only when Washington signs on. The value added by the participation of other militaries is mainly political; it is not meaningful in any operational way for enforcement (as opposed to traditional peacekeeping). This reality will not change until Europeans spend considerably more on defense so that they too have an independent military capacity. This argument will remain valid even if a new transatlantic bargain is struck about combining complementary U.S. military and European civilian instruments toward combating common security threats.¹⁷

Jostling about UN Charter reform is a mere distraction.

If the Security Council is to enforce its collective decisions, U.S. participation is, at present and for the foreseeable future, a *sine qua non*. If its purpose is to prevent Washington from doing what it has decided is vital to U.S. interests, only a hopeless romantic would claim this is feasible. Although perhaps understandable as a visceral reaction, the idea that the remaining superpower will continue to participate—politically or financially—in an institution whose purpose has become to limit its power has no precedent.

If the Security Council continues to materially disagree with U.S. foreign policy on critical issues with any frequency, the UN could come to resemble its defunct predecessor, the League of Nations. In this, President George W. Bush was on target in his September 2002 address to the General Assembly: "We created the United Nations Security Council, so that, unlike the League of Nations, our deliberations would be more than talk, our resolutions would be more than wishes."¹⁸ The Bush administration's *National Security Strategy of the United States of America* was published later that same month and could not be clearer: "[W]e will be prepared to act apart when our interests and unique responsibilities require."¹⁹ In short, the Bush administration—and any U.S. administration—will never allow international institutions to limit actions that the United States deems necessary for its national security.

The future challenge for UN proponents is twofold: to determine when the Security Council will act as a multiplier for U.S. power and to persuade the United States that acting multilaterally will be in its interest. The trick is to determine in which situations Washington and the world organization will act in concert, that is, when will U.S. tactical multilateralism kick in?

Evolutionary, Not Revolutionary, Change

Although rhetorical fireworks over the last decade have not led to UN Charter reform, they undoubtedly have made possible pragmatic modifications in the Security Council's working methods.²⁰ New council procedures initiated by member states respond in concrete, if small, ways to the need for more openness and accountability as well as for more diverse inputs into decisionmaking.²¹ Thus, they have taken steps to improve the democratic accountability of the Security Council.²²

Over the last decade, the council president (a position that rotates each month) has adopted the practice of regularly briefing nonmembers and the press about private consultations, meaning that information rather than rumor circulates. Provisional agendas and draft resolutions also are now distributed rather than kept under lock and key. The council routinely holds consultations with senior UN staff and countries that contribute troops to UN efforts and has also convened several times at the level of foreign minister or head of state in an effort to increase the visibility of important deliberations and decisions.

When requested, the UN secretariat has in the last couple of years begun to organize missions by Security Council representatives to countries or regions in crisis to permit better exposure to a range of views and to provide firsthand experience on the ground. Under the so-called Arria formula, named after former Venezuelan ambassador Diego Arria who in 1993 arranged an informal meeting with a visiting priest to discuss the conflict in the former Yugoslavia, an individual member of the Security Council can invite others for a candid exchange with independent experts and civil society. There have also been more formal meetings with heads of UN units or organizations as well as private retreats with the secretary general and his senior management team.

The reform debate has also led to other proposals that stop short of charter amendments and provide alternative formulas to finesse the issue of the veto. The P-5 could voluntarily exercise greater restraint, for example, by restricting the exercise of the veto only to matters that fall under the obligatory provisions of enforcement decisions taken under Chapter VII of the charter.²³ For cases of humanitarian intervention, the P-5 could abstain where vital interests are not involved.²⁴ Such restraint would offer no guarantees, of course, and would also set an unusual precedent of calling on selected states to give up rights acquired by treaties. Alternatively, coalitions of states might seek institutional moral stamps of approval outside the Security Council. The Kosovo Commission, an independent group of human rights proponents, made this point most distinctly by arguing that NATO's

1999 humanitarian war was “illegal” (because it had no Security Council authorization) but “legitimate” (because it was ethically justified).²⁵

Another means of skirting the veto entails adopting “the General Assembly in Emergency Special Session under the ‘Uniting for Peace’ procedure.”²⁶ Although this process has been used only three times to authorize military action—the last in the early 1960s for the Congo—it employs the idea of coalitions of the willing, which after all is one of the oldest aims of diplomats. Biting boycotts, for example, were set up against Italy by the League of Nations in the Abyssinian case of the late 1930s and by the UN against South Africa until the end of apartheid in the early 1990s. The original “Uniting for Peace” resolution even contained a clause referring to the voluntary creation of a UN force in cases where the Security Council was unable to act, that is, when it was paralyzed by the veto.

Acting through the General Assembly can be useful to circumvent a veto-wielding member of the Security Council in the clear international minority, but such a route has its limits. Once a security matter has been brought before the General Assembly, the main hurdle it faces is the requirement to have a two-thirds majority of members present and voting. Although the decision on the matter would only be a “recommendation” (whereas the Security Council’s decisions are obligations), the necessary backing in the General Assembly might have a moral and political weight sufficient to categorize the use of force as “legal” even without the Security Council’s endorsement. In such a case, the action would certainly be regarded as legitimate.²⁷

Views are divided about the wisdom of raising the use of force outside the Security Council. Many countries, particularly some European and developing countries, are reluctant or even unwilling to acknowledge the legitimacy of military force that is not specifically sanctioned by the council, even for humanitarian purposes.²⁸ For these countries, the international political process in the Security Council, however flawed and even without reform, is at least regulated. Indeed, for a growing number of legislators in the West, a bona fide Security Council authorization is essential to secure their consent to deploy national military forces. Setting aside this procedure, as NATO did in the case of Kosovo and the United States and United Kingdom did in the case of Iraq, threatens the fragile rules that underpin international society.²⁹

In examining the legal gymnastics used to justify the use of force in Iraq, Duke University professor of law Michael Byers has recently made a case for

The U.S. will not participate in an institution whose purpose is to limit its power.

“exceptional illegality.” Rather than try to change long-standing and basically effective rules, he asks “whether, in truly exceptional circumstances where a serious threat exists, no invitation can be obtained, and the council is not prepared to act, states should simply violate international law without advancing strained and potentially destabilizing legal justifications.”³⁰

That is one possibility, but in any event, adaptations in actual Security Council behavior, rather than formal modifications or reforms to either its membership or procedures, are more likely to preserve and improve Security Council credibility. Attempts to formally reform the council are unlikely to make a dent in the way that states approach decisionmaking in it. The gains made in transparency in the past are not trivial, but more than 10 years of discussion have led to no reforms to the UN Charter. This time will be no different.

Initiative Stays in Washington, Not New York

In the contemporary world, the Security Council should retain, as specified in the UN Charter, the “primary responsibility for the maintenance of international peace and security.” Yet, it will also retain the same permanent members with vetoes and, in all likelihood, the same number of nonpermanent members. “The key issue for the council,” as the International Peace Academy’s president David Malone tells us, “is whether it can engage the United States, modulate its exercise of power, and discipline its impulses.”³¹

Will the inability to reform the UN Charter compromise the credibility of the Security Council, particularly regarding matters shaping the future use of force? The answer is “probably not” or at least “no more than in the past.” Changing the composition of the Security Council would not, in any case, overcome its core weaknesses—the veto and almost total reliance upon U.S. military power. In short, the Security Council will remain the first port of call for authorizing the use of military force. The former foreign minister of Australia and president of the International Crisis Group, Gareth Evans, has pointed to the more difficult question: “whether it should be the last.”³²

Washington and the other permanent members would certainly answer “no.” Major powers normally pursue their self-determined interests in their backyards without the UN’s blessing—look no further than Côte d’Ivoire, Sierra Leone, Chechnya, or Xinjiang. The U.S. backyard, however, is considerably bigger than that of most other nations, and the ability of the United States to project military power worldwide is unparalleled. Friends and foes alike are uncomfortable with Washington’s present gear: what the EU commissioner for external relations Chris Patten has dubbed “unilateralist overdrive.”³³

Washington should recall that the Security Council not only can enhance the legitimacy of U.S. actions but also can help share global risks and burdens, such as stabilizing postwar Iraq once sanctions were lifted by the Security Council. Recalling that the Somalia syndrome was a dominant domestic factor in the United States in the 1990s, it is likely that prospects for fiscal relief and limiting casualties will become more attractive to U.S. public opinion and limit U.S. enthusiasm for future unilateral operations. If the U.S. economy remains sluggish and preemptive self-defense against rogue states expands, the UN will appear more and more appealing.³⁴

In certain cases, U.S. interests can be best pursued through multilateral decisionmaking. The choice is not between the UN as a rubber stamp and a cipher—between the axis of subservience and the axis of irrelevance. Rather, depending on the issue, the stakes at hand, the positions of other potential allies, and the plausibility of collective military action, Washington, because of its power, has the historically rare opportunity to act either unilaterally or multilaterally.³⁵

Adaptations are more likely to preserve and improve Security Council credibility.

Acting through the Security Council is always a policy option but should not be a road that Washington always, or never, takes. Clearly, no U.S. administration will permit the council to stand in the way of pursuing the country's perceived interests in national security. Yet at the same time, the Security Council often may serve vital interests as well as give the United States cause to proceed cautiously and with international acquiescence, if not jubilant support.

The war on terrorism provides an evident example of overlapping U.S. and international security interests. Fighting this plague obviously requires cooperation across borders if policies are to be even modestly successful in stopping financial flows to terrorist organizations or improving intelligence. The Security Council, for example, responded instantly to the attacks on the World Trade Center and the Pentagon by passing an unequivocal condemnation of terrorism in Resolution 1368 on September 12, 2001. The text is remarkable for its brevity yet broad scope, with a clear recognition of "the inherent right of individual or collective self-defense in accordance with the Charter," which helped enhance the legitimacy of, and support for, operations in Afghanistan. It also improved the prospects for other types of international cooperation, such as sharing intelligence and halting money laundering. Only two weeks later, the Security Council adopted Resolution 1373, a landmark in uniformly obligating all member states under Chapter

VII of the UN Charter to deny terrorists, regardless of their cause, location, or timing, the means to carry out their destructive tactics.³⁶

Other examples of shared interests include confronting the global specter of infectious diseases (including the spread of HIV/AIDS, the Ebola virus, and SARS) as well as revived weapons inspections and postconflict reconstruction in Iraq. The UN's growing involvement in postwar Iraq has important symbolic benefits as well as real ones, as do international efforts to confront pandemics. Yet, more than lip service must be paid to the interests of other countries. Unless Washington is prepared to bend on occasion and to contribute to solutions in other regions and countries, these governments are unlikely to sign on when their helping hands are necessary for U.S. priorities.

Washington's multilateral record in the twentieth century conveys "mixed messages," as Columbia University's Edward Luck reminds us.³⁷ On the one hand, the United States has been the prime mover in creating virtually all of the current generation of intergovernmental organizations—from NATO to the Bretton Woods institutions to the UN family. On the other hand, the United States has often kept its distance and even withdrawn from the International Labor Organization and the UN Educational, Social, and Cultural Organization; and recently, of course, several new initiatives (including the Kyoto Protocol, the Statute on the International Criminal Court, and the ban on antipersonnel landmines) have been met with at best a cold shoulder or at worst outright hostility. This historical pattern of ambivalence is not about to change, given today's Security Council, especially because U.S. military predominance exists side by side with a growing presumption by officials and publics in other countries in favor of more inclusive decisionmaking in multilateral forums, especially about the deployment of military force.

Style is also of consequence. In debating the authorization of force in Iraq, determining whose behavior—that of Washington or Paris—was more churlish proved difficult. The United States nonetheless proceeded to carry out a very risky venture with little diplomatic and material support. Might a slightly more tolerant administration with a greater forbearance for working within the UN system have produced a viable Security Council resolution? When pursued creatively, the leverage of U.S. power can be employed to bring others on board, and diplomacy can succeed. For example, the unpopular proposal to reduce Washington's contribution to the UN budget was finally pushed through by consensus in December 2000 as a result of the agile leadership of Ambassador Richard Holbrooke and unusual financing provided by Ted Turner. Although the stakes were obviously lower in that case, resolving the problem was not a cakewalk either. Yet, in contrast to the fiasco over Iraq, U.S. diplomacy worked.³⁸

The apparently growing U.S. appetite for unilateral action has caused painful indigestion among internationalists at home and allies abroad. The UN's menu offers more choices than the Bush administration realizes for "multilateralism à la carte," as proposed by former U.S. director of policy planning Richard Haass. Seats at the Security Council table have been the principal focus of reform discussions in New York, but their significance is largely illusory given the centralization of power in Washington. The country that actually orders from the menu and picks up the tab remains key. At the same time, a more gracious host would be desirable as the United States should preserve the multilateral option of the Security Council, and of the UN more generally, which normally serve the United States' as well as broader international interests.

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The Widening Military Capabilities Gap between the United States and Europe: Does it Matter?

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Military and political experts on both sides of the Atlantic assert that the widening military capabilities gap between the United States and Europe creates a more challenging environment for transatlantic cooperation. From the American perspective, arguments tend to suggest that the growing gap limits interoperability, dictates contradictory strategies between the United States and Europe, generates domestic burden-sharing accusations, and ultimately obliges the United States to pursue a more unilateralist foreign and security policy.

On the other hand, from the European perspective, the capabilities gap may indeed seem to be somewhat irrelevant given today's perceived low-threat security environment. Furthermore, to many European governments, the fiscal constraints required by Europe's monetary union, coupled with a demographics trend that threatens many of Europe's social programs, must make the capabilities gap appear to be insurmountable. Even if the closure of the gap were desirable, European leaders, as a whole, could hardly seek to make comparable expenditures in defense as the United States without causing a cataclysmic change to Europe's social and political landscape. And many, either begrudgingly or not, are at least realizing that the effort required to overcome this gap is not worth the economic and political costs. The United States commits twice as much national treasure for defense as its NATO European partners and outspends them on a per capita basis of over 3:1. It is simply not

possible for Europe to readjust spending priorities to make up for this shortfall. Thus, in all likelihood Europe will remain woefully behind the United States in terms of absolute military capabilities.

Despite this challenge, European politicians and scholars view the capabilities gap as a trend whose wider growth can be limited through the implementation of policies that increase defense expenditures on certain key capabilities, and lead to better resource allocation through economies-of-scale consolidation of the defense industry, research and development, and acquisition agencies, and through mutually advantageous transatlantic defense cooperation in armaments arrangements to access American technologies. These policies are being implemented not to close the gap per se; rather, they are being implemented with varying degrees of success to militarily reinforce the European pillar of NATO while simultaneously providing the European Union (EU) with a military capability to act autonomously of NATO.

Even with the efforts in these areas, European leaders are nonetheless seemingly left with a dichotomous challenge: balancing aspirations of increased military capabilities to buttress its fledgling Common Foreign and Security Policy (CFSP) against the fiscal strains of Europe's ever more demanding social-welfare state. This internal struggle suggests a continuation of the status quo and thus the need for a closer analysis of the significance of the capabilities gap.

The Gap Today

As it exists today, the military capability gap between the United States and European states certainly limits Europe's participation in particular types of operations and as a consequence arguably weakens its decisionmaking influence within the alliance and its emerging collective voice on the world stage.¹ Still, European allies do have a credible and substantial influence, both within the alliance and in the global arena:

- Economically, the 454 million inhabitants of the European Union have a gross domestic product (GDP) of \$11 trillion, which is roughly equal to the 293 million inhabitants of the United States.²
- Militarily, Europeans are in an alliance with the United States, undoubtedly the most militarily capable nation today, wherein each member theoretically has an equal say. Two of Europe's members possess strategic

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nuclear forces. Collectively, the Europeans are second only to the United States in military capabilities, and current military reform efforts under way in European states, along with NATO and EU initiatives, if implemented effectively, should result in increased efficiencies to further boost capabilities.

- Politically, European states possess two of the five permanent member seats on the UN Security Council and are vital and influential members in countless international forums. Indeed, Europeans are portrayed as the alleged masters of “soft power” and are thus perhaps more adept at coping with today’s asymmetrical threats than the United States.³

In this light, the increasing disparity between American and European military capabilities may not mean much, least of all to a European or, given Europe’s still significant military capabilities, to any potential military adversary. In turn, the question many Europeans might reasonably be asking is, “Does the growing military capabilities gap matter?”

Atlanticists would argue that the gap does matter. Interoperability with mutually supporting strategies to work in concert with each other is in Europe’s and the United States’ shared interests. For Europe or the United States to confront their common threats in isolation invites a more difficult and dangerous slog at best and catastrophe at worst.⁴ The United States enjoys a strong bond with Europe formed over the centuries by a “complex mixture of shared history, common origins, and an abiding belief in certain principles like democracy, freedom, and justice.”⁵ Apart from the soundness of these somewhat abstract concepts, past and present governments on both sides of the Atlantic have recognized that this partnership has served the transatlantic community well previously and undoubtedly believe it will continue to do so in the future.⁶ This conviction manifests itself through the alliance and its continued evolution. Still, one cannot ignore the conditions that exist today which cause critics to question the utility of the transatlantic partnership.

Arguably, apart from the political chasm that formed over the war in Iraq, one of the most critical factors in the debate of NATO’s value to Americans is the perceived power gap between Europe and the United States. The power gap is the genesis for the alleged divergence within the alliance. It is not so much the overall state of the transatlantic relationship that needs to be questioned, but rather the underlying assumptions concerning the widening capabilities gap that could lead one to invalidate the need for a strong transatlantic partnership. Again, over the past decade, current and past US and European administrations, being cognizant of the potential dangers and challenges of a growing capabilities gap, have sought ways to mitigate the damage of this trend—primarily through efforts to strengthen the European pillar of NATO, but also through the implementation of policies that support the EU’s European Security and Defense Policy.⁷

A quick read of the abundant editorials and literature pertaining to the efforts and policies within NATO and the EU would lead one to believe that the enterprise of militarily enabling Europe has been a total failure. These assessments reinforce the perception that Europe has become so shamefully weak and complacent that the United States is compelled to act as a lone sheriff on the international stage. This perceived state of affairs—that the United States’ armed forces are no longer interoperable with its European allies; that the United States and Europe have divergent security strategies; and that, consequently, the United States is forced to take unilateral measures in global affairs—is not only the mantra of many political leaders and analysts in the United States, but is also asserted by some European academics and officials who want to establish a more credible European military capability either as part of the deepening process within the EU or to counterpoise the United States, or a combination of the two.⁸

In his divisive analysis of American and European relations, Robert Kagan cites the “power gap” as one of the fundamental reasons that America and Europe are drifting further apart.⁹ Unfortunately, by exaggerating trends while ignoring nuances, Kagan and others paint a rather negative picture of Europeans as being weak and largely unprincipled, as witnessed by their alleged willingness to cooperate with “evil” regimes for the sake of avoiding violence at any cost. “Europe” is portrayed as an American antithesis, whose divergence with its old transatlantic ally is so pronounced, “they agree on little and understand one another less and less.”¹⁰ Their argument states that Europeans have become dependent upon the United States for security and its implied hegemonic and moral leadership. Were this indeed an accurate portrayal, then of course the capabilities gap would be utterly meaningless, as the Europeans could bask peacefully under American protection while the United States alone sets the declination of the world’s moral compass.

The United States of Europe?

One problem with this increasingly accepted portrayal of a powerless Europe is the tendency to regard “Europe” as a fully matured political entity, as though it were the United States of Europe. While the unimaginable destruction of two debilitating wars has led to a more stable cooperative environment, that hardly makes the region a homogeneous amalgamation of like-minded states. These states’ histories, cultures, and national psyches cannot be conveniently lumped into a one-size-fits-all description.¹¹ This leads to one of the most prevalent problems in debates concerning the power gap between the states of Europe and the United States. Detractors of Europe use the term Europe without further elaboration or definition, leaving it to the

audience to determine precisely what “Europe” means. This loose usage ultimately leads to misleading or false comparisons: from descriptions of national character to defense spending. It ascribes or assumes nation-like characteristics that are not truly present in a European supranational sense, such as a “European” foreign or security policy and their implied institutions such as a “European” ministry of defense or ministry of foreign affairs. There is no doubt that many European leaders share aspirations for a more unified Europe and have laid the groundwork for this evolutionary change through the European Union; yet, those European institutions that represent the genesis of potentially unified European foreign and security policies are in an embryonic state whose further development is uncertain and whose comparison with similar American institutions is deceptive.¹²

What, then, is “Europe”? The fact of the matter is that today “Europe” does not really exist other than as a geographical description. The European Union is the closest institutional phenomenon that could represent the idea of “Europe,” and the two terms are often seemingly synonymous. Assuming that this is a somewhat accurate estimation, then there are a few noteworthy observations that, while being rudimentary, are unfortunately either ignored or overlooked when describing “Europe.”¹³

The EU is, after all, made up of several sovereign states, each with its own foreign policy, defense policy, various ministries, and separate constituencies to whom their respective governments are responsible. The EU exists through a series of treaties with federal-like competencies only in those areas where all the member states agree. Thus, while the member states have agreed to subordinate certain national policies to supranational institutes in the economic community, the development and implementation of foreign and security policies remain largely the purview of each member state.¹⁴ Nowhere was this more evident than during the buildup to the war in Iraq. The crisis was often inaccurately publicized as causing a discord between the United States and “Europe.” In reality, the polarization of positions among the European states caused an enormous internal row within Europe (even leading to recriminations of an American plot to split Europe). Indeed, since many European states, at least from the French perspective, “missed a good opportunity to be quiet” and fall in line with a few of the more “mature” European governments, it was literally impossible to speak of a “European” position on Iraq. At the EU level, “Europe” was paralyzed, but that did not prevent the participation or support of many European governments in Operation Iraqi Freedom. The crisis merely proved that EU member states retain their sovereignty in those areas of vital national interest, at least for the time being relegating Europe’s CFSP to a hodgepodge of separate national priorities limited to those areas where the member states can reach consensus.

The nascent “European” foreign or defense policies that exist today do not represent a solid, well-developed plan to support a “European” supra-national strategy, but rather correspond to the lowest common denominator of 25 separate national policies.¹⁵ Accordingly, as this arrangement stands today, the European Union’s CFSP does not necessarily accurately reflect the foreign and security policies or the priorities of “Europe.” Rather it represents an extension of each state’s own foreign and security policies and strategies. And, when regarding the enormous diversities in foreign and defense policies of the EU member states, along with the accompanying political and historical baggage, it is a small wonder the EU has been able to accomplish as much as it has in the security arena.¹⁶

Even the actual differences of military capabilities among the EU member states are as stark as night and day. Some European nations possess nuclear weapons, while others are steadfastly opposed to anything remotely associated with atomic power. Several European governments commit a considerable amount of capital on defense, while others barely spend enough to have even a token military force. Even among the four EU neutral states, certain members guard their “armed neutrality” with significant capabilities and healthy armaments industries, while others are comfortable with drastically less capability. The list of differences is virtually endless: from large and mostly nondeployable legacy conscript forces, to rapidly deployable all-volunteer forces; from states with global military reach through capabilities such as aircraft carriers, to states without naval or air forces. This exercise of comparisons and contrasts presents two clear certitudes: it is meaningless to assign these capabilities a neat “European” label, and it is unmistakably erroneous to characterize these forces as “weak.”

Notwithstanding this diversity of national policies and actual capabilities, the EU member states still aspire to a “deepening” of the EU. Certain treaties provided the framework for Europeans to develop a Common Foreign and Security Policy, and within that policy a European Security and Defense Policy (ESDP).¹⁷ Within the confines of these policies, member states contribute military capabilities to establish a Headline Goal Force for the conduct of pre-agreed missions. Still, this can hardly be considered a grand European strategy. Simply because the EU has a Political and Security Committee, a Military Committee, and a military staff does not mean that its members have agreed to or even desire a “European Army.” These structures, institutions, and mission statements again represent nothing more than what each of the member states is willing to accomplish collectively within the context of the European Union. The laudatory progress made to date in European security and defense arrangements represents a launching point that can either remain a tool for accomplishing limited-scope operations under EU

auspices or the foundation from which more meaningful “European” strategies, policies, and capabilities can grow.

The member states of the European Union can afford such a relatively slow evolutionary implementation of security policies and its associated Headline Force capabilities because NATO remains Europe’s primary security organization. The development of a military capability autonomous of NATO is also one that all US administrations have supported as a way of sharing the security burden and increasing European capabilities. Paradoxically, some critics suggest that either the EU force represents a challenge to existing security arrangements, or the limited nature of the EU force demonstrates Europe’s military weakness.

On the surface, a force of 60,000 established to take on limited military tasks might seem unimpressive, but the restricted scope of this force should not be confused with demonstrating a weak European political will or with Europe confining itself uniquely to the use of this force.¹⁸ An EU force should instead be viewed as a tool that EU member states can employ should NATO decline to act. Yet critics of Europe’s efforts in this domain fail to see the forest for the trees as they assess the restricted nature of the force as some sort of European weakness. To be sure, there are certain critical capabilities or enablers that European states still need to develop or procure in greater quantities, either under the auspices of NATO’s Reaction Force (NRF) or the EU’s Headline Goal Force.¹⁹ However, there are sound plans and procurement programs at national levels, at bilateral and multilateral levels, at NATO, and at the EU to assist in correcting these capability shortfalls.

The EU’s narrowly focused efforts in the security arena also are often mistakenly professed as being in competition with NATO or the United States, when in fact the two organizations complement each other. One merely needs to take into account the EU’s assumption of policing and peace-keeping missions in the Balkans, its lead in the 2003 Congo crisis, and other smaller missions around the world to recognize that these institutions mutually support each other’s efforts in advancing stability and security.²⁰

In spite of these considerable achievements and continued undertakings by the EU member states, we are still today some distance from resolving Secretary Kissinger’s lament of having no one to call to speak to “Europe” about the most pressing security concerns.²¹ This condition will likely persist for some time, precisely because those issues of vital national interest are justifiably closely guarded by each sovereign European state. Whether or not this somewhat anarchical state of affairs within Europe should be viewed as positive or negative is beside the point, however. What is important is that one needs to be cautious when categorizing politics, foreign policies, defense spending, and even power as “European.” Even though the European states

are making constant progress toward integration in these areas, all of these competencies remain today largely at each state's own discretion and are not amalgamated at a supranational European level. Along these lines, one can discuss the various aspects of French, German, or Dutch defense and security policies with a high degree of authority; however, to attempt to do the same at a "European" level could prove to be somewhat reckless. Simple descriptions that do not accurately take into account the peculiarities that make up "project Europe" invite misunderstandings and grave underestimations of the United States' most important and capable allies.

Diverging or Converging Security Interests?

Another concern of the widening capabilities gap is that the power differences cause the United States and Europe to see the world differently. According to Kagan, the power gap between the United States and Europe has provided Europe and America with different outlooks on the world:

When the European great powers were strong, they believed in strength and martial glory. Now they see the world through the eyes of weaker powers. These very different points of view have naturally produced differing strategic judgments, differing assessments of threats and of the proper means of addressing them, different calculations of interest, and differing perspectives on the value and meaning of international law and international institutions.²²

Yet a straightforward comparison of the *European Security Strategy* with the US *National Security Strategy* quickly leads one to conclude that far from seeing the world and its threats differently, Europe and America perceive the world in quite similar fashion with its array of common threats. Even the respective publics agree on the essential themes. The Chicago Council on Foreign Relations survey of the European and American publics revealed that they share similar views about the threats they face and how to cope with them:

Contrary to talk about a growing transatlantic rift, the American and European publics agree on many fundamental issues. . . . They have common views of threats and of the distribution of power in the world. Both sides strongly support a multilateral approach to international problems and the strengthening of multilateral institutions. Majorities on both sides show a strong readiness to use military force for a broad range of purposes, and support NATO and its expansion.²³

Of course today's complicatedly vague threats almost leave one yearning for the simple days of the Cold War, when a single obvious Soviet threat left both Europe and the United States with little choice other than cooperation. But despite their ambiguous nature, today's threats of terrorism,

rogue or failed states, and weapons of mass destruction are clearly cited in both Europe's and the United States' respective strategies as the primary threats to security.

The relevance for each of these comparatively vague and asymmetrical threats in determining required strategies and military capabilities is each distinct, and hence perceived with differing criticalities between allies. While the United States tends to view these threats with a greater sense of urgency, several European states do not see the immediacy of the threats—a scenario somewhat reminiscent of times during the Cold War. Yet despite these differences, the United States and Europe have forged ahead through NATO to recognize the new threats, develop new strategies, and identify and implement new programs and capabilities required to cope with them.²⁴ From both a military and a historical viewpoint, new threats have merely replaced the old ones.

The Gap and a Division of Labor

Allegations of European capability shortfalls in defense are not new. There is a long history of American demands for the Europeans to increase their military capabilities. Continued shortfalls in capabilities accelerated after the Cold War. European nations cashed in on their “peace dividends” to the point that many Americans allege an irreparable gap was created, leaving Europe weak and incapable of fighting alongside its American allies. In this weakened state, the argument goes, European nations have sought the refuge of international laws, conventions, and organizations to influence world events.

On the surface this observation certainly seems logical: weak nations shun the use of force and embrace international laws and conventions, while those that are strong prefer to keep the full range of options available to them for the implementation of foreign and security policies. But the problem with this view is the underlying assumption that Europe is in fact weak. A number of indicators are incorporated into this assertion. But most of these indicators are in relation to or in comparison with the United States. If the United States is the standard of measurement used in determining what nations are weak or strong, then one could easily assert that every nation other than the United States is weak.²⁵

Consequently, using the United States as the yardstick to calculate a state's absolute military strength is deceptive, especially from a European perspective. To the contrary, qualitative and quantitative comparisons of military capabilities indicate that Europe is second only to the United States. The resulting capabilities gap between the two pales in significance when one considers they are allied with each other, are qualitatively compatible, and have capabilities that complement the other's shortfalls.

Comparing Defense Expenditures				
	2004 Expenditures in current US dollars (\$ billions)	Expressed as a percentage of GDP	Percent of the world total	Number of armed forces (thousands)
United States	455.91	3.9 %	41 %	1,546
NATO Europe	240.11	1.9 %	21 %	2,352
China	84.30	1.5 %	7 %	2,255
Russia	61.50	4.4 %	5 %	1,027
Japan	45.15	1.0 %	4 %	260
World Total	1,119.27	2.5 %	100 %	19,970
Source: IISS, <i>The Military Balance</i> , 2006				

Figure 1. Comparing defense expenditures, 2004.

From a quantitative perspective, the United States today commits resources to defense that dwarf the resources committed by any other nation, and its deployable forces far outnumber Europe's. Past operations have confirmed the severe challenges Europeans face and an excessive reliance on American capabilities to effectively deploy their own forces and conduct operations. The terrorist attacks of September 2001 and the ensuing Global War on Terrorism have ensured an accelerated divergence of defense budgets well into the foreseeable future, which may cause one to wonder whether it is not really a matter of the United States spending too much on defense, rather than the Europeans spending too little.²⁶

Collectively, Europeans have more men under arms, more main battle tanks, and more artillery than the United States. They are near parity in fighter aircraft and attack helicopters. While several European states possess forces that are made up of nondeployable conscripts and still lack the sought-after capabilities required for today's forces to get to the battlefield and then to conduct and sustain combat operations (capabilities including strategic lift; air-to-air refueling; precision-guided munitions [PGMs]; sustainment assets; and command, control, communications, computers, intelligence, surveillance, and reconnaissance [C4ISR] systems), quite a few European states possess precisely those capabilities or have plans to acquire them. European states have been making headway in many critical areas that should cause one to question past affirmations of European feebleness. Assumed shortfalls in military airlift capability continues to be touted as an example of Europe's inability to get to

the battlefield, yet a snapshot of lift assets suggests that the shortfall is not as significant as Europe's critics would have one believe. European states in NATO cumulatively possess 681 military airlift platforms to the United States' 819.²⁷ They are making progress in other areas as well, from unpiloted aerial vehicles (UAVs) and PGMs to the network-centric communications assets required to use them effectively and in concert with their American allies.

However, merely counting dollars spent on defense or the number of tanks, aircraft, and destroyers does not necessarily provide an accurate picture of the extent of the capability gap. Qualitative considerations are equally important in appreciating the significance or insignificance of the gap. Qualitative comparisons confirm American dominance of the many cutting-edge military and dual-use technologies, facilitated by an extremely competitive and consolidated military industrial base, a leading information technology sector, and strong government-backed research and development programs. By definition, this dominance implies a gap of some sort. But even this technology gap is perhaps not as pronounced as some imply. European armies possess, have access to, or are developing many of the same types of high-tech equipment and munitions that are employed by the United States.²⁸ The primary difference is that European states do not possess them in quantities comparable to the United States, and the scale of American programs is often much larger than their European equivalents. From a technological standpoint, Europe's defense industries are capable of producing armaments that are comparable to their American counterparts.²⁹

Another equally important factor in the gap equation is the type of capabilities required to ensure interoperability, thus enabling US and European forces to fight together. Jeffrey Bialos argues that American and European forces do not necessarily require the same types of capabilities to be interoperable, but at a minimum they must be able to communicate with each other via secure modes in order to exchange information. In this area the Europeans are not too far behind, and the cost to invest in C4ISR systems is not overburdening.³⁰

Consequently, while there is an undeniable numerical gap in capabilities that will invariably continue to grow, these disparities do not necessarily prevent interoperability between American and European forces. If these disparities in capabilities have caused anything, it is the establishment of a *de facto*, albeit unclear, division of labor within the alliance and between NATO and the EU, wherein the United States plays a leading role during high-intensity phases of operations and European forces become more prominent in the post-conflict phase. Regardless of concerns that such an arrangement could create resentment and mistrust, that does not change the fact that this is the essential nature of the alliance today. Heinz Gärtner suggests that in

Number of Armed Forces in 2006			
	Active	Reserves	Total
European Union	1,780,598	2,689,579	4,470,177
NATO Europe	2,350,951	3,045,804	5,396,755
Europe Total	2,469,448	3,685,679	6,155,127
United States	1,546,372	956,202	2,502,574
Source: IISS, <i>The Military Balance</i> , 2006			

Figure 2. Number of European armed forces, compared to the United States.

order to allay the possible ill feelings and further share risks and responsibilities, the division of labor should be “qualified” and not clear-cut where “Europeans do the peace and the Americans do the war.” With a qualified division of labor, European states and the United States would maintain capabilities across the security spectrum, but would tend to focus on the missions where each has a comparative advantage—be it in the collection and distribution of intelligence, the employment of precision munitions, the deployment of constabulary forces, or simple “boots on the ground.”

This capabilities-driven, qualified division of labor is already being played out in Afghanistan and the Balkans. In Afghanistan, the United States led initial combat operations to remove the Taliban and continues to have the lead role in Operation Enduring Freedom, a Coalition effort with 22 nations providing capabilities at the higher end of the warfighting continuum. Simultaneously, NATO commands a 36-nation International Security Assistance Force (ISAF) that provides lower-end peacekeeping capabilities.³¹ We have seen a similar scenario played out in the Balkans, where the United States initially provided the bulk of the combat power, but not at the exclusion of European combat forces.³² The EU has now taken over NATO missions in Bosnia as the focus has shifted to those nation-building areas in which the Europeans have considerable competence. This de facto division of labor grew out of a military necessity precisely because of the capabilities gap. However, the gap has not led to a noninteroperable, ineffective alliance; rather, we have seen a logical migration of capability contributions based on relative strengths and a partnership that recognizes the comparative advantages each side has to offer.

European Use of Force

Despite the quantitative gaps with the United States, Europeans nevertheless possess a considerable military capability. Furthermore, they are undeniably willing to use it. Critics of European capabilities assert that since

Europeans are weak, they are horrified by the thought of using military force.³³ Yet European states have resorted to the use of force more in the last decade than in any time during the Cold War, and nearly always in conjunction with the United States: in Gulf Wars I and II, Somalia, Haiti, Bosnia, Operation Desert Fox again in Iraq, Kosovo, Macedonia, Afghanistan, and the Congo. Europe's alleged abandonment of power is cited as being due to its preference for "soft" power, a preference for using forms of persuasion other than the use of force or the threat of its use.³⁴ Yet, in a speech at Harvard University, the EU's High Representative for CFSP, Javier Solana, recounted an interesting vignette that challenges the "America as Mars, Europe as Venus" premise.

Just a few weeks ago in the middle of the Indian Ocean a rather daring military operation took place. A ship was boarded from helicopters on the high seas. It was carrying missiles from North Korea to Yemen. What happened? The lawyers in another country got together and decided that the action was illegal and had to be called off. Who were the people who boarded the ship? They were Europeans, Spaniards as it happens. Who were those who insisted on the operation being ended because of international legal norms? The United States government.³⁵

This incident simply demonstrates that bold generalizations do not always reflect reality. In fact, nearly all agree that European states prefer soft power over hard. But again, as the event above shows, Europe's preference for soft power is not at the exclusion of hard power. This is also true of preconceptions about the United States being a warmongering, hegemonic power.

The argument that American military dominance makes the United States more inclined to use force than its European counterparts is valid in certain circumstances. The availability of unique military capabilities definitely provides the United States with a greater range of options.³⁶ Certainly this argument could be made for those cases where the United States acted unilaterally: Grenada, Panama, and cruise missile strikes against targets in Afghanistan and Sudan. The American capacity to conduct such operations does increase the probability that the United States will resort to force. Conversely, the probability of Europeans conducting similar operations is reduced, but perhaps not so much because they do not have the same capabilities, but because of a relative lack of political consensus. As David Calleo writes, "Europe thus still remains unable to focus effectively the military power that its states actually possess."³⁷ In other words, their hesitancy to employ force may not be because the Europeans do not have the military means to engage or even because they lack the political will to engage, but because the immature nature of Europe's CFSP and ESDP and the nature of the EU itself do not facilitate such large-scale designs.

In combined combat operations with the United States, regardless of the capabilities a state brings, the political decision to participate, by defini-

“The actual differences of military capabilities among the EU member states are as stark as night and day.”

tion, demonstrates a certain willingness on the part of European states to resort to force and assists in dispelling the notion that Europeans abstain from using force. Their relative capability deficiencies vis-à-vis the United States do not necessarily make European states less inclined to conduct operations with the United States and, as discussed above, recent history tends to support this notion.

The conflict in Kosovo confirmed American dominance and is often cited to point out the disparities in power between Europe and America. European critics take this one step further, suggesting that American willingness to spend more in order to avoid casualties led to the investments in new technologies that permitted the accurate engagement of targets from safe distances. Accordingly, this development led to a technology gap that has made the United States more willing to use force than European states. These critics purport that since European states are unwilling to suffer casualties and allegedly lack these same high-tech capabilities, they therefore would have “to pay a bigger [human] price for launching any attack at all.”³⁸ Yet, General Wesley Clark provides firsthand insight that at certain times during the Kosovo crisis, the Europeans were more willing to commit forces than the United States, despite the possibility of increased casualties.³⁹ The goal of casualty avoidance is shared by all, but as witnessed in Kosovo and elsewhere, it has not automatically relegated Europe to the sidelines.

Conclusion

There is an undeniable gap in military capabilities between the United States and Europe, and it seems that it will only grow larger. What, then, is the significance of this capabilities gap? Have the disparities in accessible military might caused the members of the alliance to perceive threats differently and their security interests to diverge? Has the gap prevented US and European forces from being interoperable? Are the differences in power so pronounced that the United States’ only choice is to go it alone? In a word, no. It would seem, despite constant and consistent historical warnings to the contrary, the gap in capabilities is somewhat insignificant in some contexts and exaggerated in others.

A comparison of the *National Security Strategy of the United States of America* with the *European Security Strategy* confirms that the United States and the EU share common threats and strategies. Governments on both sides of the Atlantic recognize that the implementation of the strategies along cooperative lines and through multilateral institutions will be more successful than each entity following its own strategies in isolation or unilaterally.

The capabilities gap also implies that the United States and Europe need to continue to work together through the alliance and other cooperative avenues if they want their forces to remain interoperable to their mutual benefit. As opposed to overcoming inequities in the quantitative gap, restraining a wider fissure in the technology gap is fiscally feasible and will help to ensure interoperability. In addition, as European states have already expressed aspirations for a military capability autonomous from NATO, their leaders should follow through with defense reforms and commit resources in those areas where there are recognized shortfalls as presented in the EU, in NATO, or both. Again, the intent of investments in key capabilities is not to close the capabilities gap or to boost spending to what Americans might construe to be “acceptable levels.” Rather, investments in these capabilities are essential to further enable European forces, ensuring that NATO member states remain interoperable and providing EU member states with the capacity to conduct the full range of missions to which they’ve agreed.

Within NATO and between NATO and the EU, a de facto qualified division of labor exists. Rather than bemoan this division of labor, leaders should recognize it and modify strategies and plans accordingly. One could argue that both organizations are already unofficially on this track, as demonstrated by their flexible metamorphosis in attacking potential or existing security problems around the world, which only a few years ago would have seemed unimaginable. The Riga NATO Summit scheduled for 28-29 November 2006 offers an excellent opportunity to recognize the particular skill sets and resources of the member states, reemphasize the requirement to remain interoperable, and in those areas where there are alliance-wide shortfalls, to identify candidate capabilities for development as NATO collective assets.

The improbability of many European states committing more of their treasuries toward defense suggests that capabilities will continue to diverge. While this is certainly not a desirable condition, it is far from being the apocalyptic end of the alliance. The capabilities gap, while growing, has not led to a dysfunctional alliance. Rather, Europe’s and America’s leaders continue to acknowledge the enormous value and importance of the transatlantic partnership in advancing their shared values and facing their common threats. Despite recent strains in European-American relations, NATO continues to serve as a valuable organization that binds the allies together, providing the

vehicle for continued cooperation. In this light, the military capabilities gap between the United States and Europe, as it exists today, is not as significant as many observers state or imply.

NOTES

1. Borut Grgic, "Why the Gulf Looks to America," *The International Herald Tribune*, 30 January 2004.
2. Figures obtained from European Union, Delegation of the European Commission to the USA, <http://www.eurunion.org/profile/EUUSStats.htm>.
3. David P. Calleo, "Power, Wealth, and Wisdom: The United States and Europe after Iraq," *The National Interest*, Summer 2003, pp. 14-15; Joseph S. Nye, Jr., *The Paradox of American Power: Why the World's Only Superpower Can't Go It Alone* (New York: Oxford Univ. Press, 2002), pp. 8-9, 30.
4. "Most important, it would be a mistake to base US foreign policy on the assumption that European support for American policy is neither possible nor necessary. Acting on the false premise that Washington does not need allies—or that it will find more reliable or more important ones elsewhere—could ultimately cost the United States the support and cooperation of those most likely to be useful to it in an increasingly dangerous world." Philip H. Gordon, "Bridging the Atlantic Divide," *Foreign Affairs*, 82 (January/February 2003).
5. A. Daniel Weygandt, "The Transatlantic Divorce—Are the US and Europe Drifting Apart?" speech at the BAWAG, Vienna, Austria, 24 September 2003.
6. In response to an inquiry about possible congressional pressure for the US military to not overextend itself with NATO, Ambassador Nuland stated, "I think the opposite is true. At least my sense is that we have very strong bipartisan support in the US for a strong NATO because NATO is a multilateral security organization that is delivering. It's delivering in Afghanistan. It's delivering in Darfur. It's delivering in Kosovo. It also, as we've talked about, is a place that can help us to strengthen the capabilities of our European allies and to increase security burdensharing and flexibility." Comments by US Ambassador to NATO, Victoria Nuland, during a briefing to the State Department Press Corps, Washington, D.C., 15 Jun 2006.
7. NATO's Transformation Command was created to ensure that as national forces transform their militaries to take advantage of new technologies, doctrine, and tactics, they remain interoperable with each other. Within the EU, common NATO/EU membership of most members, coupled with NATO/EU permanent arrangements and liaison missions, helps to keep both organizations informed of each other's efforts before and during crises and helps to make NATO assets available for EU military missions.
8. Former Secretary of State Powell refutes the notion that the United States is inclined to act unilaterally but rather seeks to cooperate with the world's "great powers" to cope with threats to stability and security. Colin L. Powell, "Strategy of Partnerships," *Foreign Affairs*, 83 (January/February 2004). Powell emphatically denied US unilateralism: "US strategy is widely accused of being unilateralist by design. It isn't. It is often accused of being imbalanced in favor of military methods. It isn't. It is frequently described as being obsessed with terrorism and hence biased toward preemptive war on a global scale. It most certainly is not."
9. Robert Kagan, *Of Paradise and Power: America and Europe in the New World Order* (New York: Knopf, 2003).
10. *Ibid.*, p. 3.
11. Even Kagan suggests "one cannot generalize about Europeans," but then proceeds to do so because, "nevertheless, the caricatures capture and essential truth: The United States and Europe are fundamentally different today." Kagan, pp. 5-6.
12. The failure of two "core" European states, France and The Netherlands, to ratify the EU Constitution in the spring of 2005 exemplifies the problematic and evolutionary nature of Europe's political integration.
13. Defining Europe as the EU is also awkward; when looking at Europe from a security and security institutions standpoint, "Europe" or "European" becomes even murkier. While NATO and EU expansion have seen overlapping memberships for many of the new entrants, Romania, Bulgaria, Norway, and Turkey are members of NATO but not of the EU. Austria, Cyprus, Ireland, Finland, Sweden, and Malta are members of the EU but not of NATO. Switzerland, resting in the heart of Europe, is a member of neither organization.
14. It is this distinction that makes the European Union a unique enterprise. The first pillar of the EU, the European Community, in effect reflects a confederate-type political arrangement among the member states. Consequently, one can discuss "European" trade policies, competitiveness, anti-trust laws, and other issues that fall within the economic domain with a greater "European" bent. Meanwhile, the common foreign and security policy resembles more an international organization based on intergovernmental cooperation whose very nature does not lend to the development of concrete "European" policies. These unique intricacies of the various EU communities are too often ignored, or familiarity with one community leads one to assume similarities of other communities when in fact they are vastly different.

15. Even within this pillar, member states can opt out of participating in certain areas. For example, Denmark has opted out of the program in its entirety. Spain and Hungary opted out of participating in the Code of Conduct on Defense Procurement.

16. A good example of this concept is the simple comparison of the security and defense policies of Europe's two most militarily capable members: France and the United Kingdom. Both recognize NATO as Europe's premier security organization, yet France tends to support policies that limit NATO's influence, while the United Kingdom tends to safeguard the primacy of NATO with ferocity. Their policies lie at opposite ends of the NATO spectrum. One can easily imagine the challenges to reconcile these differences, and yet since St. Malo the two states have been the engine for a more unified and integrated Europe on the security front.

17. The CFSP was established in 1993 with the Maastricht Treaty and has been modified since by a number of other treaties. The CFSP permits the European heads of state (European Council) to define principles and general guidelines for the EU's common foreign and security policy. The CFSP permits the formulation of common strategies and overall policy guidelines for activities with individual countries and the adoption of joint actions and common positions. ESDP was initiated by the Treaty of Amsterdam to develop a common security and defense policy to provide EU member states with policies and capabilities to execute humanitarian and rescue tasks, peacekeeping tasks, and tasks of combat forces in crisis management, including peacemaking (Petersberg tasks) autonomously from NATO. ESDP is managed by the Political and Security Committee (PSC), the European Union Military Committee (EUMC), and the European Union Military Staff (EUMS).

18. The tendency to attribute the Petersberg tasks as being on the lower end of the force spectrum is not fully accurate either. This tendency exists because for the time being the capabilities currently allotted to the EU Headline Goal Force limit its participation to the lower-intensity missions. Nonetheless, one of the Petersberg tasks is peacemaking, which can require a significant military strike and sustainment capability well beyond what might be expected for peacekeeping or disaster relief missions. The EU aspires to be able to accomplish Kosovo-type missions by 2010.

19. The NRF is set to be fully operational capability in October 2006 with approximately 25,000 troops. The force will be able to start to deploy after five days' notice and sustain itself for operations lasting 30 days or longer if resupplied. The NRF will provide NATO with a high readiness joint and combined armed force to deploy quickly. Forces rotate on a 6-month period before being replaced by a new force. The designated units go through a 12-month train-up and are certified by SACEUR. In December 1999, the European Council agreed to establish a 50,000 to 60,000 "Headline Goal" force by 2003 capable of the full range of Petersberg tasks (humanitarian and rescue tasks, peace-keeping and peacemaking tasks). The force was designed to be self-sustaining with the necessary command, control, and intelligence capabilities, logistics, and combat support services; deploy within 60 days; and sustain operations for at least one year. A 2004 council decision took into account shortfalls with the force and committed themselves to be able to achieve the full range of missions by 2010. The Battle Group concept was recently developed to provide minimum responsive force packages to include a combined-arms, battalion-sized force package with combat support and combat service support capable of launching an operation within five days of the approval of the Crisis Management Concept by the council.

20. European Union operations include the following:

- EU Police Mission (EUPM) Bosnia-Herzegovina, 1 January 2003. As of January 2006, EUPM numbered 198 international staff members—170 seconded police officers and 28 civilians. In this mission they support the police reform process and will continue to develop and consolidate local capacity and regional cooperation in the fight against major and organized crime.

- EU Military Operation in Bosnia and Herzegovina (EUFOR-Althea) Bosnia-Herzegovina, 2 December 2004. EUFOR comprises some 7,000 soldiers to replace NATO's SFOR. The force operates under UN Chapter VII mandate. The force includes troops from 22 EU member states. Albania, Argentina, Bulgaria, Canada, Chile, Morocco, New Zealand, Norway, Romania, Switzerland, and Turkey also participate in the operation.

- EU Military Operation in Democratic Republic of Congo (Artemis) DRC, 12 June 2003 - 1 September 2003. EU Force of 1,800 aimed at contributing to the stabilization of the security conditions and the improvement of the humanitarian situation in Bunia, DRC. This was the first autonomous EU military mission outside Europe. France was the framework nation.

There are other EU missions as well in the Balkans, Africa, Caucasus, Middle East, and Asia. To date, the EU has conducted 15 operations, with a potential mission to Kosovo in the queue.

21. Even though the creation of a High Representative of CFSP is a significant step in resolving Kissinger's dilemma, the High Representative still must bow to the wishes of the various heads of state of the European Council.

22. Kagan, p. 11.

23. Chicago Council on Foreign Relations, *Worldviews 2002*, "American and European Public Opinion & Foreign Policy," <http://www.worldviews.org/detailreports/compreport/index.htm>.

24. NATO's membership expansion eastward, the conduct of out-of-area missions, the establishment of a Transformation Command, and the development of the NATO Response Force (NRF) are all examples of the

transatlantic community's political willingness to transform and to recognize and cope with a changing security environment.

25. Barry Posen, "Command of the Commons: The Military Foundation of U.S. Hegemony," *International Security*, 28 (Summer 2003).

26. "The European Union has three major independent military powers—Britain, France, and Germany. . . . In 2002, the three European powers spent \$35, 32, and 23 billion respectively on national defense—a total of roughly \$90 billion, as opposed to roughly \$350 billion for the United States. Looked at in relation to population or GDP, the big European three spent roughly half of the US outlay. Nevertheless, the three European states together spent more than Russia, China, or Japan. What do these figures tell us? Is it that everyone else is spending too little on defense, or that the United States is spending too much?" David P. Calleo, "Power, Wealth, and Wisdom: The United States and Europe after Iraq," *The National Interest*, No. 72 (Summer 2003), pp. 11-12.

27. International Institute for Strategic Studies (IISS), *The Military Balance, 2006* (London: Routledge, June 2006), p. 406. Several of these aircraft participated in NATO's first NRF mission of transporting relief supplies to the victims of Hurricane Katrina in the southern United States.

28. There are, nonetheless, military technologies that the United States develops at a great cost through various R&D programs to protect US forces and subsequently closely safeguards. Often the US government is willing to provide its European allies with the capability, but is unwilling to provide them with the know-how. In other words, the United States will provide the "black box," but will not divulge the source code inside the box that makes it work. In turn, the United States is often unjustly accused of being unwilling to transfer key technologies when in fact it is willing to provide the capability. Thus European militaries have access to many of the same capabilities afforded to American forces and routinely at similar costs.

29. Two recent studies confirm Europe's relatively solid standing in the technological area. Gordon Adams et al. discovered that while none of the European states studied is likely to have a fully networked military in the foreseeable future, "all have a greater commitment to the deployment of C2 [command and control] and communications capabilities that link their national forces closer together and provide greater interoperability within the NATO alliance than is sometimes thought. The biggest constraint on European C4ISR investment is overall limitations on defense budgets, not the absence of adequate technology." Gordon Adams et al., *Bridging the Gap, European C4ISR Capabilities and Transatlantic Interoperability* (Washington: George Washington University, October 2004), p. iv. A study by the French Defense Minister's Conseil Général de l'Armement, after examining air-to-air and cruise missiles, telecommunications and optical spy satellites, nuclear attack submarines and frigates, and attack and transport helicopters, also concluded that the technological gap was either small or nonexistent. See "UK-US JSF Pact a Boon for MBDA," *Defense News*, 12 June 2006. Other examples of Europe's domestic aptitude at the high-tech end of the defense industry are EADS's A400 program, EADS's first air-to-air refueling sale to the UK, MBDA's Storm Shadow cruise missile, several PGMs, and Europe's Galileo satellite.

30. Jeffrey Bialos, "The United States, Europe, and the Interoperability Gap," *The International Spectator*, 40 (April-June 2005), pp. 58, 60. The Adams et al. study also makes clear that C4ISR systems are the linchpin for conducting modern military operations.

31. The four top contributing countries are Germany with over 2,400; Italy, over 1,100; UK, over 900; and France, over 800. See the NATO webpage "NATO in Afghanistan," <http://www.nato.int/issues/afghanistan>.

32. It is perhaps noteworthy that the first air-to-air engagement during the Kosovo conflict was a Dutch F-16 downing a Serb Fulcrum.

33. Since the United States possesses a formidable "hammer, all problems start to look like nails," while weak Europe faces the opposite problem: "when you don't have a hammer, you don't want anything to look like a nail." Kagan, pp. 27-28.

34. Calleo, p. 12.

35. Javier Solana, "Mars and Venus Reconciled: A New Era for Transatlantic Relations," 7 April 2003, <http://ue.eu.int/uedocs/cmsUpload/75373.pdf>.

36. There are obvious advantages to acting in concert with allies and with the blessing of international institutions. Their support not only brings sorely needed military and financial assistance in the long run, it also provides legitimacy. In a world where international rules and conventions carry increasingly more weight, the "legitimate" use of force, while not a prerequisite, nonetheless becomes a correspondingly more valuable commodity in the conduct of world affairs.

37. Calleo, pp. 14-15.

38. Kagan, p. 23.

39. Wesley K. Clark, *Waging Modern War: Bosnia, Kosovo, and the Future of Combat* (New York: Public Affairs, 2001), pp. 319, 330-34, 438. On p. 450, he writes: "The European officers saw a leaner campaign focused on Kosovo, characterized by more flexible and daring tactics. They were prepared to take greater risks with their troops and to ask for less from the supporting arms such as artillery and airpower." Clark further explains that Europeans were more concerned about *civilian* casualties and their preference was to shift efforts from the air campaign to a ground campaign to limit civilian casualties.

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CURRENT HISTORY

November 2004

"What matters now are the modernization of the alliance and the development of a common agenda for the Middle East. Both tasks require the EU's emergence as a more effective global power."

All in the (Dysfunctional) Family? Transatlantic Relations after Iraq

JOHN PETERSON

Views on the postwar evolution of transatlantic relations can be divided into two broad camps. A "realist" view holds that, even before the Iraq War, relations between Europe and America were fraught with disagreements and never free of crisis for very long. Despite a nostalgic temptation to dismiss conflicts as family disputes, the transatlantic alliance has veered perilously close to collapse on multiple occasions as it suffered through a rich variety of rows from Suez to Kosovo. According to this perspective, America's hegemony led successive US administrations to act unilaterally on issues of prime concern to European allies, thus opening wide fissures in the alliance.

An alternative, "liberal" view contends that the multilateralism of the post-World War II order bound the United States and Europe together and gave them a common project: to extend the array of states taking part in international institutions and the democratic community. Transatlantic relations featured stability and mutual adjustment more than crisis or unilateralism. US diplomacy toward Europe was based mainly on negotiation, with the United States modifying its position when persuasion did not work. On issues of European security, our "daddy's NATO" (to borrow a phrase from Lord Robertson, its recent secretary-general) was steadfast. Euro-American solidarity was one of the few things that could be taken for granted in international politics.

No one—realist or liberal—doubts that transatlantic relations have lately taken a fascinating turn. Few deny that they are deeply troubled. Even before

9-11, the list of issues on which Europe and the United States under George W. Bush seemed to be speaking past one another had grown unusually long. And even before Iraq, Robert Kagan's claim that the transatlantic alliance had collapsed—culturally, temperamentally, and permanently—into a Europe that was from Venus and an America that was from Mars fired a lively debate.

Before any of this (including 9-11) took place, one of the last remaining Eurocentric gurus of US foreign policy, former Secretary of State Henry Kissinger, argued that it was time to rethink the principle that European integration served American interests. Never a great admirer of the European Union, and always an eager booster of NATO, Kissinger nevertheless struck a chord in Washington by imagining "a Europe shrinking from global responsibilities, assuming the status of a mini-United Nations and delivering moral homilies while concentrating on economic competition with the United States; or, alternatively, there could emerge a Europe challenging the United States and constructing a foreign policy of mediating between America and the rest of the world, rather like what India attempted during the cold war."

After Iraq, it is even easier to foresee the new EU of 25 nations endlessly vacillating between these two positions: at times, hamstrung by new divisions between "old" and "new" Europe, or else taking a French lead and challenging, even harassing, the US hegemon. The British diplomat Robert Cooper concedes that "the Iraq question has . . . brought a strikingly high volume of transatlantic abuse in strikingly crude tones. Each time we insult each other the fabric tears a little and though repairs are made the join still shows. The old magic is gone." In its place are

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new questions about the nature of transatlantic relations. Does the rift over America's invasion of Iraq make moot all past differences of interpretation about the relationship? Is it the worst transatlantic crisis ever? Is there no recovering from it?

While these are not the wrong questions to ask about US-European relations, they are not the most important. Most analyses lamenting that relations "will never be the same" miss two crucial points. One is that transatlantic relations were transformed well before the split over Iraq in 2003—and far more dramatically, structurally, and permanently—by the end of the cold war, after which it was always clear that things would never be the same. Second, far more convergence remains between the United States and Europe regarding ends for the international order than is often appreciated, a point obscured by frequent and sometimes bitter disputes over means. The most important questions are: Can the United States and Europe define and pursue a common policy agenda in the region where European and American foreign policy attention is now overwhelmingly focused—the (for lack of a better term) Greater Middle East? And can the transatlantic relationship be modernized to suit new circumstances?

THE PERFECT STORM

There is much about the Iraq crisis, and its effects on US-European relations, on which most realists and liberals could agree. One is that both the Bush administration and antiwar European states violated the norms that regulate relations between members of any democratic alliance. Another is that the row over Iraq fits with a wider pattern of transatlantic disputes over non-European "out of area" issues—particularly rogue states—that contrasts with harmony on most issues of European security and strategy. Finally, no one can argue that the conflict came out of the blue: Iraq had become an increasingly sore spot in transatlantic relations, and within Europe itself, in the late 1990s. Iraq was, as many have noted, the diplomatic equivalent of the perfect storm.

Asking whether Iraq constitutes the *worst* crisis of the transatlantic alliance might seem an unconstructive exercise, for three reasons. First, the global political context within which the alliance exists differs fundamentally from what it was for most of the postwar period. John Ikenberry may be right that the post-9-11 context brings to bear the same kinds of functional pressures for cooperation among Western democracies as the cold war once did, albeit in new policy realms, such as weapons

of mass destruction (WMD) proliferation, immigration controls, money laundering, and international shipping. Yet, only after the 2004 Madrid bombings ("3-11") was catastrophic terrorism seen widely in Europe as a truly shared threat and even then, for many Europeans, only because of the misguided solidarity of Spain and a few other states with America in the Iraq War.

Second, the institutional framework within which the alliance is managed has changed beyond recognition. Since 1990, the EU has become progressively more often the mouthpiece through which Europe speaks in international and transatlantic affairs, even if its messages are often amorphous or mixed (particularly with those that come from national capitals). Iraq, however, was never viewed in Washington as an issue involving the EU, as opposed to the United Nations or NATO. Perhaps ironically, a long-term effect of European disunity over Iraq may be the accelerated fortification of EU foreign policy.

Third, it is easy to overestimate the gravity and permanence of the damage done to a democratic alliance in the heat of any dispute. Domestic pressures that push bickering democracies toward conflict in the first place need time to ease. Efforts at damage limitation out of concern for the long-term survival of alliances are usually not immediate.

FROM SUEZ . . .

Nevertheless, comparing the Iraq crisis to other transatlantic disputes allows us to see what makes Iraq unique and what makes it "normal," and thus where the alliance now stands. A frequent claim is that Iraq has the potential to do more, and more lasting, damage than any Euro-American dispute since the Suez crisis of 1956, when Britain, France, and Israel invaded Egypt (which had nationalized the Suez Canal) and opened a rift with the United States. At least two analogies are apt. In both cases, the allies did not see the crises in the same light—a contingency with potentially devastating consequences given its effects on the calculations of other players, including Egypt and the Soviet Union in 1956, and Saddam Hussein and Al Qaeda in 2003. And in both cases, the United States showed a brutal lack of concern for the interests of multiple European allies.

Analogizing much further requires a major analytical stretch. The international context of 2004 is worlds away from that of 1956, when the primary transatlantic concerns were the rise of Soviet power and Europe itself, as opposed to international terrorism and the greater Middle East. Moreover, in a

remarkable role reversal, it was the United States under a Republican administration that was most concerned with the dangers of inflaming global—especially Arab—opinion by resorting to military action over Suez. In 1956, President Dwight Eisenhower warned that “the peoples of the Near East and of North Africa and, to some extent, of all of Asia and all of Africa, would be consolidated against the West to a degree which, I fear, could not be overcome in a generation.”

Nor is the institutional context remotely similar. Suez was above all a challenge for a still young and unproven NATO that lacked established norms for resolving internal disputes. In 1956, what is now the EU was nothing more than a twinkle in a small circle of European diplomats’ eyes. In fact, the shock of Suez, when America not only failed to support the United Kingdom and France but positively humiliated them, gave tangible impetus to European integration. The chancellor of postwar West Germany, Konrad Adenauer, took from Suez the lessons that US support for Europe was fickle

and that no West European state could ever match American (or Soviet) power on its own.

Now, post-Iraq, the EU is no longer “your daddy’s” EU. It has never had anywhere near as much geopolitical or diplomatic weight—and, more important, as much potential to enhance both—as it has now in its new guise as a 25-member union. The upshot is that Europe has the makings, at least, of a political unit powerful enough to challenge US policy as something closer to an “equal” than ever before.

All of this might be viewed as very sobering, especially since earlier disputes were between clearly unequal partners and often seemed low-cost exercises given the strength of the geopolitical glue that held the West together during the cold war. In fact, this interpretation is not always easy to square with the historical record. The next crisis after Suez—over the status of postwar Berlin—was a crisis of the Western alliance as much as it was a cold war crisis. Still, it never festered into as open a wound as Suez.

... TO BERLIN AND PARIS ...

Nikita Khrushchev’s 1961 ultimatum on Berlin—demanding a treaty that would effectively incorpo-

rate the entire city into East Germany—divided the alliance along lines similar to those of 2003, with German (and French) views differing markedly from those of the United States and United Kingdom. In both cases, the British showed themselves far more willing to risk isolation in Europe than separation from the United States, while France and Germany sought to demonstrate that they were each other’s indispensable partner.

In looking back at the crisis, Kissinger’s decidedly realist view is that bilateral US-(West) German relations nearly “spun out of control,” with the transatlantic alliance itself coming “perilously close to breaking” over Berlin. Ultimately, the alliance was saved by Khrushchev’s enormous miscalculation in sowing the seeds for the Cuban missile crisis. During the worst of all cold war crises, the alliance held and the United States received essentially unconditional backing from all of its European allies,

including Charles de Gaulle’s France.

However, subsequent years saw Franco-American, if not transatlantic, relations veer toward outright rupture.

First, de Gaulle reacted to America’s 1962 offer of missiles for Britain’s ostensibly independent nuclear force by vetoing the United Kingdom’s application to join what was then the European Economic Community (EEC). One effect was to jettison President John Kennedy’s vision of a “fully cohesive Europe” with which the United States sought a “Declaration of Interdependence.” Shortly thereafter, France and West Germany signed the 1963 Elysée Treaty, which committed both sides to cooperation “on all important questions of foreign policy.” The treaty infuriated the Kennedy administration’s coterie of Eurofederalists, who feared that German support for European integration (as well as the Atlantic alliance) would be undermined. By 1966, de Gaulle was pulling French troops out of NATO’s integrated command and expelling NATO’s headquarters and 26,000 US troops from French territory.

Yet this period also revealed the determination of all sides in a democratic alliance to manage their differences. The 1963 crisis was defused quickly, not least because the German Bundestag insisted on so many qualifications to the Elysée Treaty, including provisions stating that it did not supersede Bonn’s commitments to the EEC and NATO. The reaction by President Lyndon Johnson’s administration

An unsung consequence of Europe’s humiliation over Iraq may be a jump-starting of the development of a more purposeful EU in foreign policy.

to de Gaulle's pullout from NATO was low-key and conciliatory, despite a strong anti-French public reaction in the United States (which resembled that of 2003).

... TO VIETNAM ...

Vietnam catalyzed the next major transatlantic crisis. In some ways it connected to Franco-American disputes of the mid-1960s, especially when de Gaulle launched his 1965 attack on the dollar to protest the privileges America enjoyed (such as the ability to "export" inflation with impunity) in the international monetary system. However, the Vietnam War had its own, specific European subtext, even if that aspect was never a major concern for most US policy makers or chroniclers of the period. The global economic imbalances that arose largely from America's prosecution of the war while bearing the expense of Johnson's Great Society overpowered the Bretton Woods financial system. The so-called Nixon shocks of 1971, when fixed exchange rates and the backing of the dollar with gold were unilaterally suspended, stunned Europeans. One effect was to accelerate ongoing European attempts to move toward economic and monetary union, with a target date of 1980, even if these efforts would fail miserably in the short term and only bear fruit nearly 20 years later.

More generally, the shock of the Vietnam War for European governments—several of which had to cope with their own violent antiwar protests—reflected a perception that US foreign policy had been captured by domestic political forces oblivious to alliance concerns. By 1973, Kissinger's "Year of Europe" was greeted with suspicion and even contempt in Europe, which furthermore found itself unusually united in opposition to US support for Israel in the October Middle East war. A more general upshot was to encourage Europeans' ongoing experiment in coordinating national foreign policies through the European Political Cooperation mechanism, although (again) it took more than 20 years for it to become the Common Foreign and Security Policy (CFSP).

By 2003, 30 years after the US pullout from Vietnam, Europeans were flabbergasted to be wondering, yet again, whether America understood that its own model of democracy was not readily exportable, that the methods used to revive postwar Europe could not work in a region with radically different conditions, and that the greater the domestic insecurity—in postwar Iraq as in wartime South Vietnam—the more heavy-handed and illegitimate America's client-state would become.

Even before the Iraq crisis, Europe experienced a groundswell (extending, crucially, to public opinion) behind the notion that the EU somehow had to become a more effective global actor—especially so Europe could, according to the circumstances, either stand up to the United States or act as an effective partner. No other priority was as widely shared within the EU's Convention on the Future of Europe, which drafted the union's new constitutional treaty.

If the treaty (as amended by member states) is ratified—and the union equips itself with a new minister of foreign affairs, a unified diplomatic service, and a military capability—future historians may conclude that it took the Iraq crisis finally to induce European unity where it traditionally has been most elusive: on matters of high politics. As the former diplomat Helmut Sonnenfeldt has suggested, Iraq might be viewed as having a long-term effect similar to that of Vietnam: plunging the transatlantic alliance into crisis but eventually consolidating it, because of Europe's desire for leverage on US policy and determination to earn it with greater unity.

This view of Vietnam's effect (Iraq's is less certain) seems plausible when it is considered that the alliance held through the Euromissiles trauma of the early 1980s, when European governments faced down massive street protests over the stationing of intermediate-range nuclear-tipped US missiles in Europe. Uncharacteristically, President Francois Mitterrand's France emerged as the chief European supporter of the plan. The alliance also survived quasi-hysteria over "Fortress Europe," when much of Washington interpreted the relaunch of European integration in the 1980s as an act of mercantilism rather than market liberalization.

... TO THE BALKANS AND IRAQ

Of course, post-Iraq, it is easy to dismiss the solidarity of the 1980s as the last gasp of a coalition defined and sustained by the cold war. It can be argued that the worst of all postwar transatlantic rifts, prior to Iraq, came over the Balkans in the 1990s. NATO was nearly torn apart by European helplessness and then American unilateralism over Bosnia. Kosovo exposed Europe's military infirmity while also traumatizing the US military hierarchy, which bridled at political meddling by European capitals in NATO's bombing campaign.

According to a realist view, Europe's nightmares of the George W. Bush era were foreshadowed in the years of Bill Clinton's presidency. The US national

security strategy outlined in 1995 signaled that America would use “decisive and, if necessary, unilateral” force when vital US interests were threatened. Clinton signed the Iraq Liberation Act in 1998, committing the United States to “support efforts to remove the regime headed by Saddam Hussein.” With British support, the United States fought a continuous but little-noticed air war of attrition with Iraq over the course of 10 years after 1993.

Liberals would dispute, or at least interpret differently, the significance of these events for the Atlantic alliance. It is little wonder that the Balkans crises were traumatic given their enormous complexity and, for long periods, insolubility. Ultimately, however, they were resolved (however precariously) through unified transatlantic action. Nor were NATO’s troubles surprising, since the alliance’s logical termination point was the end of the cold war. In fact, an enlarged and reinvigorated NATO emerged after the cold war’s end. Meanwhile, the EU’s European Security Strategy, released in 2003 in the aftermath of the Iraq War, moved European

doctrine on terrorism, WMD proliferation, and rogue states considerably in the directions of both hard-headed pragmatism and transatlantic convergence.

Despite considerable continuity in US foreign policy, the violation of alliance norms over Iraq may have obscured, and even temporarily interrupted, the trend toward a progressively more united Europe in global politics. As Iraq illustrates, the end of the cold war both accentuated US power and diminished American authority, perhaps in roughly equal (and massive) measures. Owen Harries is right that “hegemons do not easily learn the lesson of modifying their ambitions.” Yet an unsung consequence of Europe’s humiliation over Iraq may be a jump-starting of the development of a more purposeful EU in foreign policy. By itself, the EU cannot make the creation of a new concert of states organized around a transatlantic core a central ambition of US policy, under or after a Bush administration. But a Europe that finds its feet as a global power might be plausibly viewed as a crucial prerequisite of such a turn.

DEMOCRATIZING THE MIDDLE EAST

Perhaps the most important reason to think that two outcomes of the Iraqi crisis will be enhanced European unity and transatlantic solidarity is the new focus of both Europe and America on what

broadly could be called the greater Middle East. This is where both sides are increasingly concentrating foreign policy attention, above all because the region is viewed as central to defusing (few would dare say “winning”) the so-called war on terrorism. It is also where, ultimately, policy ends are mostly shared but differences persist over policy means.

The point is illustrated clearly by the Bush administration’s Greater Middle East initiative, which seeks to promote democratization in the region and create a safe neighborhood for post-Saddam Iraq. Beyond Washington, the initiative has been derided as indicative of both the neoconservatives’ grip on US foreign policy and the breathtaking naïveté of their earlier assumptions that American forces would be “welcomed as liberators” in Iraq and a “wave of democracy” would subsequently sweep across the region. Critics accuse the Bush administration of trying to foist a grand design on the Middle East that is unwel-

come, unimaginative, and unlikely to promote meaningful democratic reform. Targeted states have, for the most part, neither been consulted nor seen their

most urgent concern—the Israeli-Palestinian question—addressed by the initiative.

For its part, the EU already has long experience in seeking to promote reform in the region through its own initiatives. Most European governments see little chance of democracy taking root in the region without massive cultural and social transformations, and thus prefer “modernization” to “democratization” as a means to induce positive change. All see the Israel-Palestinian conflict as a central source of resentment and tension in the Muslim world.

Most EU governments view favorably proposals (several of which have emanated from Washington) for a regional system of norms and rules modelled on the Organization for Security and Cooperation in Europe. America’s Greater Middle East initiative seems to eschew this model out of fears that putting security issues on the table would inevitably lead Arab states to insist on raising the Arab-Israeli conflict.

Yet meaningful reform in the Middle East will never materialize without collective and sustained backing by both the United States and Europe, and specifically the productive use of US leverage with Israel and the EU’s pull in Arab states (including, such as it is, Palestine). There are already precedents for the kind of combined effort that, some-

*Iran in many ways is a more important test
for European foreign policy than Iraq.*

what paradoxically, requires a pragmatic division of labor. One is European-led diplomacy toward Syria, Iran, Pakistan, Saudi Arabia, and Egypt in the immediate aftermath of 9-11. Another is Iran after the Iraq War, where France, Germany, and the United Kingdom (not the EU collectively) actively sought to curb Iranian nuclear ambitions, with Bush conceding that "our European counterparts are influential, more than we are, in Iran."

THE CASE OF IRAN

Iran in many ways is a more important test for European foreign policy than Iraq. A US attack on Iraq in 2003 or soon afterward was close to inevitable. Despite claims to the contrary (by, for example, former Secretary of State Madeleine Albright), the Clinton administration's hard-line policy on Iraq makes it credible to think that an attack on Iraq would have been launched, perhaps with wider coalition support and according to a different timetable, even if Al Gore had defeated Bush in 2000. The chances that Europe could have prevented it are negligible.

In the case of Iran, the EU has leverage that the United States, which has not had diplomatic relations with Teheran since the late 1970s, entirely lacks. Here, differences on policy means are sharp, with America seeking to isolate and Europe attempting to engage Iran to promote internal reform. (It was widely reported earlier this year that Iran had sought talks with the United States on what became known as a "grand bargain" on nuclear weapons, terrorism, and Israel as early as May 2003, but the Bush administration, paralyzed by internal divisions on the offer, simply failed to respond.) The EU has stuck doggedly to its line that Iran must embrace human rights reforms and controls on its nuclear program in exchange for progress toward a bilateral trade and partnership agreement with the union, a prize much coveted in Iran (at least by political moderates), and despite the EU's generally patchy record of making such linkages elsewhere.

Because European diplomacy has been led by national capitals rather than union headquarters in Brussels, the EU remains vulnerable in Washington to charges of hypocrisy. European governments have, according to former State Department official Richard Haass, "done more to undermine the common foreign and security policy [CFSP] than anybody here." Yet repeated missions to Iran—jointly led by Berlin, London, and Paris—took place after full consultations with all EU members in Brussels and respected common EU positions. (It was often only dimly

understood outside Brussels that the EU's "high representative" for the CFSP, Javier Solana, was actually inferior in rank to the foreign minister of even the smallest EU member state.)

The stakes surrounding Western overtures toward Iran, whoever leads them, are very high. Iran was the country most heavily implicated in the black market for nuclear technology run by the "father" of Pakistan's nuclear capability, A. Q. Kahn. It is widely considered the most dangerous country in the world, after Pakistan, as a potential source of a nuclear weapon that falls into the hands of terrorists.

By autumn 2004 the European initiative on Iran had run aground. The referral of Iran's seemingly blatant violations of the nuclear Non-Proliferation Treaty to the UN Security Council appeared certain. However, Iranian attempts to widen transatlantic divisions by accusing EU states of being American lackeys and making "colonialist demands" were, at least, rebuffed.

THE INDISPENSABLE EU

The indispensability of an EU role in the wider Middle East is revealed in the European Commission's 2003 "Wider Europe" initiative. Designed to reflect the new geopolitical reality facing the EU of 25 member states, the initiative seeks to extend "stability and prosperity" beyond the union's new borders, specifically to countries "not currently having the perspective of EU membership." The list of such states is long and includes several—Belarus, Moldova, Russia, Ukraine—well beyond the Middle East, but also extends to Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, the Palestinian Authority, Syria, and Tunisia.

The region's daunting problems make it difficult to imagine a "zone of prosperity and a friendly neighborhood" arising from reforms levered out of Arab and other states in exchange for the prospect of joining the EU's internal market (through the European Economic Area). Yet the Wider Europe initiative creatively combines a range of EU policy instruments with incentives ranging from economic assistance to the easing of visa restrictions. In contrast to the US Greater Middle East proposal, Wider Europe also shows sensitivity to differences among partners, with the union agreeing to negotiate individual action plans with each state. Firm emphasis is placed on respect for human rights and support for civil society organizations. Perhaps above all, the EU (or at least the European Commission) has put money behind the initiative, proposing new financial instruments and committing nearly 1 billion

euros for 2004 to 2006. Initially, five Middle Eastern states seemed ripe for agreements: Morocco, Tunisia, Israel, Jordan, and Egypt.

Clearly, Wider Europe offers no panacea, particularly when the record of the EU's Euro-Mediterranean partnership program is considered. Created in 1995, Euro-Med was intended to promote the democratic and economic modernization of the region and peaceful relations among its states. Nine years after the program's launch, Syria remained a glaring problem: it was the only state in the region not to have signed an EU association agreement, and thus effectively held hostage the goal of a Euro-Mediterranean free-trade area. Yet the EU was the destination for two-thirds of all Syrian exports, giving the union real pull with the autocratic government of President Bashar Assad.

At one point in 2003, with a deal with Syria apparently close, the EU suddenly insisted on a clause in its draft association agreement committing Syria to eschew WMD. Here, the EU sought to narrow the gap between its policy of engagement with Syria and American attempts to isolate it (in November 2003 the US Congress passed legislation imposing sanctions on Syria). However, Syria refused the EU overture and remained a sore spot in transatlantic relations, even as the EU continued doggedly to pursue an accord.

The limited achievements of the EU's Euro-Med initiative help to explain why the Bush administration chose to promote its own Greater Middle East proposal. European skepticism and outright Arab hostility to it have been mixed with a sense that any US diplomatic engagement in the region needs to be encouraged, however grudgingly. Few doubt that the region will remain volatile and a hotbed of Islamist terrorism until there is a political solution to the Israel-Palestinian conflict. Yet few claim that the Quartet—grouping the United States with the EU, UN, and Russia to encourage political dialogue between Israel and Palestine—is working very well, or deny that it is overwhelmingly US-dominated.

Still, the EU is and will remain a major player in the Middle East. To illustrate the point, a technically flawed, EU-sponsored poll suggesting that Europeans thought Israel represented a "greater threat to world peace" than any other country in the world prompted international outrage and charges of rising

European anti-Semitism. But a subsequent poll this year in Israel still found large majorities of Israelis supporting the idea of applying for EU membership.

Regardless of its weight in its "near abroad," the EU's scope for effective foreign policy action is largely defined by how it manages its relationship with America. A recent surfeit of proposed strategies for Middle East reform all concur, predictably, that Iran and Syria are crucial and US and European efforts must be combined for any real progress in the region to be made anytime soon. Western efforts to forge a new and reformed Middle East may require many years before they make tangible progress. But they are far more likely to succeed once the United States and the EU transform their shared objectives into a joint agenda.

AN ALLIANCE MAKEOVER

The pursuit by the United States and the EU of shared ends risks being foiled by inadequate institutional means. To a surprising extent, the alliance remains stuck in the cold war era: excessively one-

dimensional (focused on the military-security realm) and NATO-centered. The New Transatlantic Agenda (NTA) framework, created by the Clinton administration to strengthen US ties to the EU, has pro-

duced few tangible results. The most recent US-European summits were illustrative: the June 2004 summit in Ireland lasted barely three hours and yielded little beyond a highly technical agreement (on the European Galileo satellite system); the subsequent NATO summit in Istanbul saw the Bush administration lobby hard on the highly charged issues of NATO-assisted training of Iraqi security forces and Turkey's EU membership.

The modernization of the transatlantic relationship requires action on three fronts. First, the NTA framework needs to be revamped. Above all, it must facilitate military exchanges as the EU develops its European Security and Defense Policy, an inevitable prospect now that the union is taking over primary responsibility from NATO for peacekeeping in the Balkans. At present, military agencies—particularly the redoubtable Pentagon—are entirely absent from NTA exchanges. NTA summits also need to adjust to an enlarged EU, as well as to the creation of an EU foreign affairs minister. Exchanges between senior officials, especially

There is little hope for reform and stability in the greater Middle East without collective Euro-American action, and quite a lot of it.

between the US secretary of state and the EU foreign minister, should be as purely bilateral as possible (within the political limits of European integration) as often as possible. Finally, NTA exchanges must give a more prominent role to parliamentarians, who are mostly sidelined by the current framework yet have formidable wrecking powers.

Second, the United States must adapt to increasing pluralism in European foreign policy, and accept and even encourage a new "unity through diversity." By many interpretations, the CFSP has been a sad failure, both with regard to Iraq and more generally. However, the foreign policy of an EU of 25 will logically feature far more coalitions of the willing on specific policy issues—especially those with military implications such as Operation Althea in Bosnia—

A Current History Snapshot . . .

"The European settlement at the end of the war will be effected, let us hope, not by a regimental mess of fire-eaters sitting around an up-ended drum in a vanquished Berlin or Vienna, but by some sort of Congress in which all the Powers (including, very importantly, the United States of America) will be represented. Now I foresee a certain danger of our being taken by surprise at that Congress, and making ourselves unnecessarily difficult and unreasonable, by presenting ourselves to it in the character of Injured Innocence. We shall not be accepted in that character. Such a Congress will most certainly regard us as being, next to the Prussians (if it makes even that exception), the most quarrelsome people in the universe. I am quite conscious of the surprise and scandal this anticipation may cause among my more highminded (*hochnaesig*, the Germans call it) readers. . . . [But] I do not believe that the trueborn Englishman in his secret soul relishes the pose of Injured Innocence any more than I do myself. He puts it on only because he is told that it is respectable."

"Common Sense about the War"
Current History, December 1914
George Bernard Shaw



with the effect, perhaps ironically, of yielding more decisive and effective action. The recent formation of "battle groups," which combine specific national capabilities (mostly British and French) into joint military forces at the hard end of European capabilities, is a case in point. Recent European diplomacy toward Iran, with the CFSP used to back up a multilateral effort by selected national capitals, may prove a model (although the position of the new EU foreign minister must be respected). More generally, if Europe is to escape "Euro-paralysis," it must do so as a variety of different Europes specific to different domains of foreign policy—with the United States showing respect for the EU's institutional dignity but also able to work with coalitions of the willing.

Finally, Europe and America need to work for long-term reform of the UN Security Council. The Security Council is the most important international institution that still retains a system of representation reflecting the international world of 60 years ago. The current review of the UN's institutions by a high-level panel appointed by UN Secretary General Kofi Annan has been mandated to focus on Security Council reform. But it is unlikely to do more than prepare the ground for a serious debate, almost certainly a long one, about how the institution might be overhauled to reflect geopolitical reality. There is no chance that either of the EU states—France or the United Kingdom—with permanent seats will gracefully step aside anytime soon in order for the EU itself to become a member. Still, the irresponsible behavior of EU states regarding Security Council reform—with Italy, for example, acting as the main barrier to German aspirations for a permanent seat—needs to stop. More broadly, the notion that the UN is the primary forum for determining the legitimate will of the "international community" will eventually fade unless the major powers, above all America and the EU states, lead a serious effort to modernize the Security Council.

TRANSATLANTIC THERAPY

Iraq was a serious transatlantic crisis, but only one in a long series. Realists and liberals give different answers to the question of whether the wolf is really at the door this time. But to dwell on this question risks missing what was really novel about the run-up to the Iraq War, and made it so traumatic: it was the most serious transatlantic dispute of the post-cold war period. What matters now are the modernization of the alliance and the development of a common agenda for the Middle East. Both tasks require the EU's emergence as a more effective

global power. But there is far more agreement between Europe and America on basic ends for the international order, as well as scope for considerably more European foreign policy unity and effectiveness in the long-term, than is often appreciated.

The point about policy ends may be disputed and it is easy to find claims to the contrary. Basic cultural differences between the United States and Europe, sublimated during the cold war but exposed afterward, have made it difficult to square instinctive, almost diametrically opposed, attitudes on issues such as the Kyoto protocol on global warming or the International Criminal Court.

To illustrate the point, the most important determinants of US foreign policy (and, by extension, transatlantic relations) in the near term may be changes in domestic American politics. Continuing shifts of population and wealth to the American south and inner west and changes (especially redistricting) that make Congress less outward-looking and internationalist may well produce a more populist brand of US politics and aggressively unilateral foreign policy, regardless of presidential election outcomes.

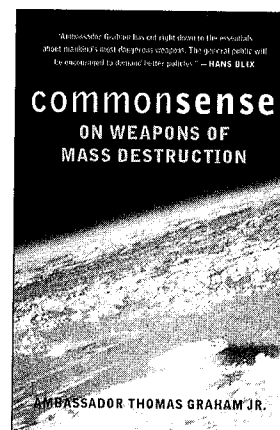
Meanwhile, Europe's focus may be internal for years to come, as the EU seeks to digest its latest and next enlargements while attempting to ratify its new constitutional treaty. The Iraq War marked a major step backward in American appreciation for, and comprehension of, what many in Brussels privately admit should never even have been called a *Common Foreign and Security Policy*. The EU's two most important, near-term external policy projects—the European Security and Defense Policy and deciding what to do about Turkey—are likely to be loathed and misunderstood in Washington. Transatlantic relations will require considerable political investment and careful management to ensure that they do not get worse before they get better.

However, to go from acknowledging the shock of Iraq, the new cultural pluralism of the North Atlantic area, and the scope for future mutual incomprehension to concluding that Americans and Europeans cannot be allies because they no longer want enough of the same things requires a vast leap. In Europe as much as America, one set of foreign policy concerns—and by extension one region—now trumps all other candidates: international terrorism and its roots in the greater Middle East. There is already evidence to suggest that the shock of Iraq may help induce the EU's emergence as a more forceful and effective international actor, with the union able to speak and, more important,

act with more unity for more of an enlarged Europe. Eventually, the EU will be equipped with some of the accoutrements of a truly global power, including a foreign minister, a diplomatic service, and a military capability. In all Western capitals, it is widely acknowledged there is little hope for reform and stability in the greater Middle East without collective Euro-American action, and quite a lot of it.

Iraq might be viewed as an entirely new kind of transatlantic dispute: the first Euro-American crisis that was not a “family feud” because the family began to dissolve when the cold war ended. By this interpretation, avoiding rupture over the Balkans in the 1990s merely delayed the inevitable. On the other hand, US Senator Joseph Lieberman, in apportioning equal blame for the Iraq crisis to the Bush administration and “old Europe,” accused the allies of acting like a “dysfunctional family” that needed therapy, but was still a family nonetheless. Perhaps the therapy, a sort of self-administered cognitive behavior modification program, is under way, with postwar Iraq and the continued threat of international terrorism giving alliance members an incentive to stick to their prescribed course. ■

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Mind the Three Transatlantic Power Gaps: How a New Framework Can Help Reinvent the Transatlantic Relationship

by Stanley R. Sloan and Heiko Borchert*

The end of the brief “hot” war in Iraq and the accompanying transatlantic diplomatic conflict set the stage for a new and challenging period of U.S.–European relations. The United States, its European allies, and the international community more generally face complex and multifaceted rebuilding challenges: Iraq needs to be rebuilt after the war that removed Saddam Hussein’s tyrannical regime from power; the rift in transatlantic relations must be repaired; and the United Nations needs to be rebuilt, and with it the core of international law regulating the use of force. Finally, the bond of trust between Washington and the rest of the world needs to be rehabilitated, with a special focus on the kind of role that the United States is going to play in the international system.

Tackling this daunting agenda is hardly possible without the reinvention of the transatlantic partnership. To this purpose, both sides need to pay more attention to the various power gaps that are weakening their bonds. Based on the notion of hard and soft power, we identify three power gaps that need to be addressed. The first and probably best known is the hard-power gap, which has been at the forefront of the transatlantic agenda since NATO’s intervention in the Balkans in the mid-1990s. Put most simply, the hard-power gap is the result of diverging threat assessments and spending patterns on both sides of the Atlantic. Most recently, NATO has undertaken enormous efforts to address specific European shortcomings in this area. The European Union has introduced new capability provision mechanisms to achieve its Helsinki Headline Goal, and some European countries have begun to increase their defense budgets. Furthermore, EU leaders have agreed to establish an agency for defense capabilities development, research, acquisition, and armaments that will help improve procurement efficiency.¹ Although far from being accomplished, the good news about the hard-power gap is that it has been identified as a shortcoming. The same cannot yet be said about the remaining two power gaps.

Second, there is a soft-power gap. Soft power, according to Joseph

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¹ Presidency Conclusions, Thessaloniki European Council, 19–20 June 2003, para. 65; available at <http://ue.eu.int/pressData/en/ec/76279.pdf> (accessed 28 June 2003).

Nye, is a nation's (or a group of nations') ability to influence events based on cultural attraction, ideology, and international institutions.² The soft-power gap is not the result of a lack of capabilities on either side of the Atlantic. Rather it stems from a growing proclivity of the transatlantic partners to use their soft-power resources against each other in what seems to have become a rather fruitless soft-power rivalry. This "gap in the minds" is even more alarming than the wake-up call to "mind the gap" with regard to diverging hard-power capabilities.³

Creative utilization of soft and hard-power resources in tandem is essential if the transatlantic partners are to deal effectively with today's security challenges. Soft power can help legitimize hard power. Although hard power is most essential to win wars, and often to give credibility to strategic choices, soft power is all the more important to winning and preserving the peace. Soft power is the very prerequisite for trust among people and states. Without trust, a stable international order cannot be built and sustained. Today, however, soft power and hard power are rarely seen as two sides of the same coin. Europe clearly is all too quick to shun military might (of which it has little), and is too dependent on soft power (with which it is well endowed). Europe's hard power deficit, however, undermines the gravitas of European diplomacy, particularly in dealing with its superpower ally. This is part of the problem. The other part of the problem is that U.S. approaches to soft-power policy are all too often the neglected stepchild in U.S. responses to international challenges.

The third power gap is that between the Euro-Atlantic hard and soft-power capabilities on the one hand and the cooperative and institutional structures available to integrate these capabilities on the other. Existing institutions of transatlantic dialogue have reached their limits of usefulness.⁴ No institution rivals NATO's ability to address the military aspects of today's security challenges and to pave the ground for inter-operability among the countries of the Euro-Atlantic area. However, the Alliance is less well suited to address the non-military challenges of the twenty-first century. Given the need to address the broader political agenda, the platform for U.S.-EU dialogue has grown in importance with regard to addressing security issues, such as prohibiting the proliferation of weapons of mass destruction (WMD) and fighting terrorism. However, this institutional dichotomy is detrimental to the efficient and effective handling of the new security risks. There is thus an urgent need to complement existing transatlantic institutions with a new framework that helps overcome the second power gap identified above.

² Joseph S. Nye, *Bound to Lead: The Changing Nature of American Power* (New York: Basic Books, 1990).

³ David C. Gompert, Richard L. Kugler, and Martin C. Libicki, *Mind the Gap: Promoting a Transatlantic Revolution in Military Affairs* (Washington, D.C.: National Defense University, 1999).

⁴ For a similar argument, see James B. Steinberg, "An Elective Partnership: Salvaging Transatlantic Relations" *Survival* 45:2 (2003): 113–146, particularly 125–130.

As we will argue, the signing of a new Atlantic Community Treaty and the establishment of a new Atlantic Community Treaty Organization would address this problem by providing an umbrella that covers the hard and soft-power capabilities of the transatlantic partners (as well as the candidate countries) while leaving unchanged the existing competencies of NATO and the EU. The added value of this new body is two-fold. First, by bridging the hard and soft-power divide, the new framework will facilitate joint assessments of threats and opportunities. Both perspectives need to be taken into account at the assessment level in order to avoid a bias in favor of one or the other at the level of implementation. Second, the new institution will facilitate the adoption of concerted strategies and actions to address the threats and opportunities identified, thus providing a kind of “strategic guidance” for action by NATO, the EU, and other Euro-Atlantic institutions.

Because the hard-power gap has been well researched, the remainder of this essay looks at the existing soft-power gap and the need to blend hard and soft power more effectively. To begin, we look at existing U.S. and European sources of soft power. Then we turn to the new Atlantic Community Treaty and the Atlantic Community Treaty Organization as a proposal to mute the transatlantic soft-power rivalry. We illustrate the value of this proposal by addressing some key international issues. Our conclusion discusses the necessary steps that each partner will have to undertake in order to reinvigorate the transatlantic partnership.

U.S. Soft Power: The Diminishing Preparedness of Being Locked In

As John Gerard Ruggie has argued, the most important aspect of the international order after World War II was not U.S. hegemony, but the fact that the hegemon was American.⁵ This meant that the United States decided to cooperate with its allies rather than dominating them, that Washington agreed to tame its power by being locked in to multilateral organizations, and that its political system was open to interference from its allies, thus offering them the opportunity to influence U.S. decision-making.⁶ As a result, Washington’s leadership had to do with power, both hard and soft, but it did not solely rest on it. Rather,

⁵ John Gerard Ruggie, “Multilateralism: The Anatomy of an Institution,” in *Multilateralism Matters. The Theory and Praxis of an Institutional Form*, ed. John Gerard Ruggie (New York: Columbia University Press, 1993), 31.

⁶ G. John Ikenberry, “Rethinking the Origins of American Hegemony,” *Political Science Quarterly* 104:3 (1989): 375–400; G. John Ikenberry, “Creating Yesterday’s New World Order: Keynesian ‘New Thinking’ and the Anglo-American Postwar Settlement,” in *Ideas and Foreign Policy: Beliefs, Institutions, and Political Change*, eds. Judith Goldstein and Robert O. Keohane (Ithaca, NY: Cornell University Press, 1993), 57–86; G. John Ikenberry, *After Victory: Institutions, Strategic Restraint, and the Rebuilding of Order After Major Wars* (Princeton, NJ: Princeton University Press, 2001); Peter F. Cowhey, “Elect Locally—Order Globally. Domestic Politics and Multilateral Cooperation,” in *Multilateralism Matters*, 157–200; Thomas Risse-Kappen, *Cooperation among Democracies. The European Influence on U.S. Foreign Policy* (Princeton, NJ: Princeton University Press, 1995).

as James MacGregor Burns has argued, leadership is inseparable from followers' needs and goals.⁷ Leadership is an interactive process where the leader is followed because he is able to convince the followers. By listening to and caring about the opinion of its allies, the United States managed to base its leadership – and, therefore, the nature of its following – on persuasion and normative consensus, or soft power. However, when the leader neglects to bring its soft power into play in support of military actions, would-be followers often take the first chance to deviate.⁸ This is exactly what has happened in recent years, and what led to the most recent transatlantic crisis over Iraq.

Unilateralism – whether in the rough form deployed by the current Bush Administration or in the more occasional, cushioned, and velvet form of the Clinton Administration – is a clear sign of a shifting balance between reliance on hard and soft power in U.S. foreign policy. Crude hard-power politics provokes criticism and resistance because it directly puts at risk the international consensus around “embedded liberalism” and the value of international institutions.⁹ First, the neo-conservative ideology of a hard power-based foreign policy has increased the United States' preparedness to go it alone and to question core assumptions of the international order built after 1945 (e.g., the preemptive use of force vs. the UN Charter). This tendency came to the fore across a range of different international issues, ranging, *inter alia*, from the U.S. refusal to ratify the Kyoto protocol or the statute of the International Criminal Court, to increasing tariffs for imported goods to protect the U.S. steel industry, to the extraterritorial application of the Sarbanes-Oxley act, which toughens U.S. accounting standards. Second, statements like “the mission defines the coalition” can be interpreted as a farewell to the long-standing U.S. support for a multilateral framework. In an extreme but telling judgment, William Pfaff has argued that the Bush Administration “envisages a world run by the United States, backed by as many states as will sign on to support it but not interfere.” Therefore it wants separate coalitions for each task so that no one can veto U.S. policies.¹⁰ If bypassing international organizations becomes the rule rather than the exception, international relations of the twenty-first century will be fundamentally altered and could increasingly resemble the international order of the nineteenth century, driven by the balance of power.

In the long run this tendency undermines the attractiveness of the U.S. political, cultural, and societal model, thereby threatening the core of U.S. soft

⁷ James MacGregor Burns, *Leadership* (New York: Harper & Row, 1997).

⁸ Andrew Fenton Cooper, Richard A. Higgot, and Kim Richard Nossal, “Bound to Follow? Leadership and Followership in the Gulf Conflict,” *Political Science Quarterly* 106:3 (1991): 391–410; 398ff.

⁹ John Gerard Ruggie, “Embedded Liberalism and the Postwar Economic Regimes,” in *Constructing the World Polity. Essays on International Institutionalization*, ed. John Gerard Ruggie, (New York: Routledge, 1998), 62–84.

¹⁰ William Pfaff, “Bush's new global order will generate resistance,” *International Herald Tribune*, 17 April 2003, 6.

power. International public opinion polls conducted in the aftermath of the war on Iraq clearly underline this danger. According to a study conducted by the Pew Research Center, the percentage of people that somewhat or very much disapprove of the U.S. increased markedly in Italy, whose government supported the war (to 38 percent in May 2003 from 23 percent in summer 2002), in France (57 percent vs. 34 percent), and Germany (54 percent vs. 35 percent). The same study also highlights a growing preparedness of these countries' populations to loosen NATO's ties to the U.S. Equally alarming is the drop in approval for the U.S. in the Arab world. The most extreme shift was seen in NATO member and U.S. ally Turkey, where more than 80 percent (vs. 55 percent in summer 2002) have an unfavorable opinion of the United States.¹¹ In line with these figures, John Paden and Peter Singer report that U.S. schools, universities, and academic institutions are already complaining that application rates from international students are falling, while other English-speaking countries are beginning to market their educational systems as alternatives to the United States. At a time when transnational links are becoming ever more important, the United States risks the weakening of its bridgeheads to vital international communities such as the Muslim world.¹²

European Soft Power: More than the Result of Hard Power Deficiencies

Tensions about U.S. leadership and the uncertainty about the course of U.S. foreign policy in the future have put more focus on the soft-power – and so far, to a lesser extent, the hard-power – capabilities of the EU. The EU's soft-power approach rests on the assumption that the law of the strongest can be successfully replaced by the strength of the law. Thanks in part to the provision of security by the United States, the transfer of sovereignty – and with it the adherence to soft power, rather than the build-up of hard-power capabilities – has become Europe's preferred path.

Europe's preference for rules-based politics is not, as Robert Kagan has argued, simply a result of its lack of hard power.¹³ Rather it is the outcome of its history and its political complexity. As William Wallace has pointed out, "Europe's inclination to highly regulated politics can be explained by the density of Europe's population, the vulnerability of its ecology, and the penetrability of its frontiers. The lighter approach to governance in the United States fol-

¹¹ Meg Bortin, "In war's wake, hostility and mistrust," *International Herald Tribune*, 4 June 2003, 1, 6. The report "Views of a Changing World 2003" is available at <http://peoplepress.org/reports/display.php3?ReportID=185> (accessed 28 June 2003).

¹² John N. Paden and Peter W. Singer, "America Slams the Door (On Its Foot)," *Foreign Affairs* 83:3 (2003): 8–14. For a more detailed account of the role of U.S. schools in building cultural ties, see John Waterbury, "Hate Your Policies, Love Your Institutions," *Foreign Affairs* 82:1 (2003): 58–69.

¹³ Robert Kagan, "Power and Weakness," *Policy Review* 113 (2002): 3–28; available at <http://www.policyreview.org/JUN02/kagan.html> (accessed 21 April 2003).

lows from its open spaces and its continental position.”¹⁴ This experience has led to different interpretations of sovereignty. The U.S. understanding of sovereignty is bound to the state’s monopoly of power over a territory and the uncontested rule of the national constitution and national political authorities. A kind of “super-Gaullism,” this interpretation increases the United States’ room for maneuver.¹⁵ Furthermore, in the fight against terrorism, Washington is increasingly prepared to subordinate concerns over interference in the sovereignty of other states to opportunities to combat emerging threats.¹⁶ EU member states, by contrast, adhere to a post-modern understanding of sovereignty. They “allow outside interference in their domestic affairs because they get something in return: influence on a supranational level of governance.”¹⁷ As a consequence, there is a distinct European approach to security that rests not only on the use of non-military instruments to deal with security problems but also on adherence to multilateralism and rule-orientation, a network-centric approach to international politics, and close cooperation with non-state actors to tackle today’s security policy challenges. In sum, the EU offers a unique soft-power model that has so far not been offered by other states or multi-state organizations.¹⁸

U.S. and European Soft Power: Combine, Don’t Compete

With two distinct forms and sources of soft power, and with the recent experience of the war on Iraq fresh in the global memory, the scene looks set for a potential soft-power rivalry between Europe and the United States.¹⁹ At least from a European point of view, exporting an alternative soft-power model looks like a tempting proposition. Some European states have traditional political and cultural bonds with many of today’s pockets of crisis. The EU’s emphasis on multilateralism and international institutions and the importance EU members give to preventive diplomacy and international development aid could be used to position the EU as an alternative power center (of both kinds) to the United States. Therefore it comes as no surprise that some people in Brussels and other European capitals are increasingly willing to combine these aspects via the European Security and Defense Policy (ESDP) in an effort to counterbalance Washington.

¹⁴ William Wallace, “Europe, the Necessary Partner,” *Foreign Affairs* 80:3 (2001): 16–34; 29–30.

¹⁵ Adam Roberts, “Law and the Use of Force After Iraq,” *Survival* 45:2 (2003): 31–56; 52.

¹⁶ Steinberg, “An Elective Partnership,” 119.

¹⁷ Hans-Henrik Holm and Georg Sorensen, “International Relations Theory in a World of Variation,” in *Whose World Order? Uneven Globalization and the End of the Cold War*, eds. Hans-Henrik Holm and Georg Sorensen (Boulder, CO: Westview Press, 1995), 204.

¹⁸ Jolyon Howorth, *European Integration and Defence: The Ultimate Challenge* (Paris: WEU Institute for Security Studies, 2000), 88–91. A similar argument is developed by Hans-Georg Ehrhart in *What Model for CFSP?* (Paris: WEU Institute for Security Studies, 2002).

¹⁹ Charles Kupchan, *The End of the American Era: U.S. Foreign Policy After the Cold War* (New York: Alfred A. Knopf, 2002).

However, nothing would be more damaging to the fate of the transatlantic relationship and long-term international stability than this. Philip Gordon is right to argue that Americans and Europeans must not “allow the prospect of a transatlantic divorce to turn into a self-fulfilling prophesy,” because “no two regions of the world have more in common nor have more to lose if they fail to stand together.”²⁰ Instead of entering into a useless “beauty contest” on who has the best soft power, Americans and Europeans should join forces in launching a new initiative to reinvent the transatlantic relationship. The international community needs the “transatlantic couple” to hammer out solutions to the most pressing global challenges in tandem with other leading nations and international organizations.²¹

At the core of this new initiative lies the reinvigoration of the transatlantic community of values through the development of a new Atlantic Community Treaty.²² The purpose of this treaty would be to

promote mutually beneficial political, economic, and security cooperation at all levels of intergovernmental and multinational interaction among them [the parties of the treaty] and [to] particularly ensure the effective collaboration between the North Atlantic Treaty Organization (NATO) and the European Union (EU) in areas of mutually reinforcing activity.²³

Following this statement of purpose, the new treaty would have two goals. Politically, it would shift the focus away from those issues that divide the transatlantic partners to that they have in common. Functionally, the treaty, incorporating all NATO and European Union members, would create a soft-power framework of cooperation to complement the hard-power frameworks of NATO and the ESDP.

Operations of a new Atlantic Community Treaty (soft-power) Organization (ACTO) could include twice-yearly summit meetings among all members of NATO and the European Union as well as all countries recognized

²⁰ Philip H. Gordon, “Bridging the Atlantic Divide,” *Foreign Affairs* 82:3 (2003): 70–83; quoted passages at 79, 83.

²¹ Similarly, Andrew Moravcsik refers to complementarity, not conflict, as the new transatlantic watchword. See: Andrew Moravcsik, “Striking a New Transatlantic Bargain,” *Foreign Affairs* 82:4 (2003): 74–90, especially 81–88.

²² These arguments build on Stanley R. Sloan, *NATO, the European Union and the Atlantic Community. The Transatlantic Bargain Reconsidered* (Latham: Rowman and Littlefield, 2003), 217–227; Stanley R. Sloan, “Challenges to the Transatlantic Partnership,” *In the National Interest*, 12 March 2003; available at <http://www.inthenationalinterest.com/Articles/vol2issue10/vol2issue10sloan.html> (accessed 30 May 2003).

²³ Sloan, *NATO, the European Union and the Atlantic Community*, 221.

as candidates for membership in those two bodies. The meetings could be scheduled in conjunction with the regular NATO and EU summits and would supplant the current U.S.–EU summit meetings. The summit framework could be supported by a permanent council to discuss issues as they develop between summit sessions, and by working groups that meet as needed.²⁴ To give the Community a representative dimension, the NATO Parliamentary Assembly could be transformed into the Atlantic Community Assembly, including representatives from all member states in the Community, with the mandate to study and debate the entire range of issues in the transatlantic relationship. In order to frame a common understanding of how to tackle tomorrow's challenges, the Atlantic Community Assembly should cooperate closely with the Parliamentary Assembly of the EU and that of the Organization for Security and Cooperation in Europe (OSCE).

To help reduce institutional overlap and heavy meeting schedules for transatlantic officials, all items currently on the U.S.–EU agenda could be transferred to the new forum, covering virtually all aspects of transatlantic relations and including all countries with interests in the relationship, unlike the more narrow U.S.–EU consultations. When specific U.S.–EU issues arise, they could be handled in bilateral U.S.–EU negotiations. Atlantic Community institutions could be established in or near Brussels to facilitate coordination with NATO and EU institutions.

At the same time, it might be beneficial to address the forms of coordination between the new institution and the OSCE and the United Nations. The OSCE should be strengthened as the body that would bring together the members of the new Atlantic Community and all the other states of the Eurasian region that do not qualify for or do not seek Atlantic Community membership, including (most importantly) Russia and Ukraine. To that end, all relevant functions of the Euro-Atlantic Partnership Council (EAPC) (whose agenda is at any rate hard to distinguish from the OSCE) could be shifted to the OSCE. The main responsibility of the OSCE would be to deepen collective security among its participants and help build peace and cooperation across the continent through confidence building and arms control measures, early warning, conflict prevention, crisis management, and post-conflict rehabilitation activities. Such a step would consolidate Europe's institutional architecture and strengthen the remaining organizations.

With regard to the UN, the new Atlantic Community Treaty Organization should not be interpreted as a "concert of powers" established to sideline the world organization. Rather, the new transatlantic institution can make a three-fold contribution to the UN and the international community. First, if the transatlantic partners that currently contribute four of the five per-

²⁴ Steinberg makes a similar request for "ongoing transatlantic deliberative committees on priority policy issues that can function as the transatlantic equivalent of the interagency process"; "An Elective Partnership," 139.

manent members of the UN Security Council can use the new framework effectively to harmonize their position on international issues of peace and security, they will greatly advance the effectiveness of the world organization's key decision-making body. Second, direct contacts between the working groups of the new Atlantic Community Treaty Organization and the UN's special organizations can facilitate cooperation if they help to bridge the gap between political declarations and the requirements of implementation. Finally, the new body can work effectively with organizations and countries from other regions of the world, thereby avoiding the impression of a "transatlantic fortress" in the making.

Approaching problems and issues from the broad perspective offered by an Atlantic Community framework would open up possibilities for the discussion of issues that are debated unofficially among allied representatives at NATO but are not within NATO's formal mandate. In an Atlantic Community forum, there would be a better opportunity for a dynamic problem-solving synergy to develop when issues can be put on the table in their full complexity. However, a new Atlantic Community would embrace, not replace, NATO in the overall framework of transatlantic relations. Because it would be a cooperative and not an integrative forum, it would not threaten the "autonomy" of the EU or undermine NATO's Article V collective defense commitment. In fact, it could help bridge the current artificial gap between NATO discussions of security policy and U.S.-EU consultations on economic issues, which have important overlapping dimensions. Because an Atlantic Community would encourage members to address issues that NATO currently does not tackle, the new structure would provide added value beyond those modalities offered by the traditional alliance. It might also provide some additional options for shaping "coalitions of the willing" to deal with new security challenges in cases where using the NATO framework may not be acceptable to all allies, and where action could be blocked by a single dissenting member.

Elements of a New Atlantic Community Consensus

Given the most recent transatlantic rift, reinvigorating common bonds is an end in itself. But, of course, it is not enough. The United States and its European friends and allies need to address a number of issues that will be key to transatlantic relations and to international cooperation and stability.

Terrorism, Failed States, and Development

It has been widely argued that the terrorist attacks of September 11 have fundamentally changed U.S. foreign and security policy, while Europe has continued to implement its pre-attack agenda. Although there is a fair point in this argument, things are beginning to change rapidly. In mid-2003, the EU adopted a series of documents that underline an increasing awareness of terrorism's strate-

gic importance and a convergence in the threat assessment. The draft of the new EU security strategy, for example, lists terrorism along with the proliferation of WMD, failed states, and organized crime as a key threat to international security. In addition, the draft European constitution explicitly refers to the fight against terrorism as a specific task of the ESDP and foresees a new “solidarity clause,” under which member states that have become the victim of armed aggression shall inform other states and may request aid and assistance from them. Furthermore, the EU declaration on non-proliferation of WMD issued in June envisages, as an instrument of last resort, the application of coercive measures in accordance with the UN Charter.²⁵

Despite these signs of change, Europe and the U.S. continue to look at terrorism from two different perspectives.²⁶ While Western European states generally emphasize the causes of terrorism, such as bad governance, underdevelopment, and authoritarian rule, the U.S. focuses on the consequences by illuminating the link between terrorism, failed states, and WMD proliferation. To address terrorism successfully, the EU and the U.S. will have to move simultaneously at all three levels of Joseph Nye’s famous “chess board” – i.e., at the level of military, economic, and transnational relations.²⁷ To accomplish this task, the new Atlantic Community Treaty Organization provides a valuable framework that will help blend both perspectives. By framing the broad strategic framework, the new institution thus provides the missing link that has so far prevented Europe and the United States from addressing the root causes and the long-term consequences of terrorism in a collaborative manner.

Two examples illustrate the value of the new body in this area. First, if there had been an Atlantic Community Council in September 2001, it could immediately have established working groups to address all aspects of the campaign against sources of international terror. The North Atlantic Council would not have been required to wait for the Atlantic Community Council to act, and could have invoked Article V on September 12, just as it did. However, in the meantime, discussions in the Atlantic Community Council could have been coordinating the response of police authorities in Community countries, discussing actions to cut off sources of financial support to terrorists, developing public diplomacy themes to accompany military and diplomatic action, and beginning consideration of long-term strategies designed to undermine support

²⁵ “A Secure Europe in a Better World,” S0138/03, 20 June 2003, 4–6; available at <http://ue.eu.int/pressdate/EN/reports/76255.pdf> (accessed 28 June 2003); Articles III-205, III-209, Draft Constitution, Volume II, CONV 802/03, Brussels, 12 June 2003; available at <http://european-convention.eu.int/docs/Treaty/cv00802.en03.pdf> (accessed 28 June 2003); Declaration on non-proliferation of weapons of mass destruction, Annex II, Presidency Conclusions, Thessaloniki European Council, 19–20 June 2003, para. 4; available at <http://ue.eu.int/pressData/en/ec/76279.pdf> (accessed 28 June 2003).

²⁶ Ivo H. Daalder, “The End of Atlanticism,” *Survival* 45:2 (2003): 147–166; 158.

²⁷ Joseph S. Nye, *The Paradox of American Power. Why the World’s Only Superpower Can’t Go It Alone* (New York: Oxford University Press, 2002), 39.

for terrorist activities and address its causes. Second, the recent “Winning the Peace Act” introduced by U.S. Senators John Edwards, Jack Reed, and Pat Roberts is a promising sign of the potential to harmonize U.S. and European peace-building activities and the treatment of failing states.²⁸ The Act aims at strengthening U.S. capabilities in the fields of security and public safety, justice, governance, and economic and social well-being. As the initiative targets the same focus areas that also constitute the core of the ESDP’s civilian activities, it opens the door for harmonizing the respective security concepts and jointly developing the relevant resources. Both could be achieved under the umbrella of the new Atlantic Community Treaty Organization.

Debate New International Rules

With the U.S.–U.K. attack on Iraq, the door to a new world order has been pushed wide open, but the jury deliberating on the basic principles of that new order is still out. Most important is the question of whether the preemptive use of force – as outlined in the United States National Security Strategy – will prevail as a viable strategy, or whether the members of the new Atlantic Community will be willing to abide by the international rule of law in the sense of the UN Charter, which some now describe as dead.²⁹

Supporters and opponents of a reform of the UN Charter’s ban on the use of force both make effective points. Supporters, mostly from the United States, say that the drafters of the UN Charter did not foresee the new kind of transnational and asymmetrical threats and the advent of non-state actors. Given the new capabilities to exercise violence on a worldwide scale anytime and anywhere, it is no longer adequate to wait for an attack to happen; rather, power should be used preemptively.³⁰

By contrast, opponents argue that the alternatives presented so far to replace the concept of “imminent threat” as a justification for preemptive military action are vague on all accounts – i.e., with regard to defining the circumstances, the objects, and the means of the preemptive use of force.³¹ Furthermore, they convincingly argue that a return of an opportunistic and extensive use of the “right of self defense” will lead international relations back

²⁸ John Edwards, “Winning the Peace,” *In the National Interest*, 25 June 2003; available at <http://www.inthenationalinterest.com/Articles/Vol2Issue25/Vol2Issue25Edwards.html> (accessed 30 June 2003)

²⁹ For a powerful obituary for the UN Security Council, see Michael J. Glennon, “Why the Security Council Failed,” *Foreign Affairs* 82:3 (2003): 16–35.

³⁰ “The National Security Strategy of the United States of America,” September 2002, 15; available at <http://www.whitehouse.gov/nsc/nss.pdf> (accessed 28 June 2003). For a cautious approach that labels the preemptive use of force politically unwise, although it may be lawful, see: Anthony Clark Arend, “International Law and the Preemptive Use of Military Force,” *Washington Quarterly* 26:2 (2003): 89–103.

³¹ For more on this, see Roberts, “Law and the Use of Force After Iraq,” 45–49.

to where it came from: a security dilemma in which uncertainty prevails.

With the intervention in Kosovo (1999) and the war in Iraq (2003), members of the Atlantic Community have created two strong cases that deviate from the traditional understanding of the use of force. Therefore, they should initiate and lead a discussion on the future of international law in general and the use of force in particular. This debate should aim at finding new international rules for the use of force by taking into account the nature of new risks and strengthening, not bypassing, the role of the UN Security Council. By conducting this debate within the framework of the UN, the members of the Atlantic Community would send a powerful signal to the world that they remain committed to playing by a system of internationally accepted rules, as long as other nations and groups are willing to do so.

Strengthen International Institutions

By creating a new Atlantic Community soft-power organization, the transatlantic allies would already have made a powerful case in favor of international cooperation. This should be backed by sustained efforts to make existing institutions more flexible and to provide them with resources commensurate with their tasks. By strengthening and advancing cooperation among themselves, each international organization can make a powerful contribution to advance the soft-power agenda.

It goes without saying that the UN is the preeminent platform to debate all issues pertinent to the establishment of a new world order. Most important in this regard is the fact that the UN has recently embarked on promising ways to strengthen global governance by working more closely with non-state actors such as non-governmental organizations and multi-national corporations. Opening the international arena to civil society is one of the strongest tools to strengthen soft power in the long run.

At the core of the transatlantic relationship, the long-standing dichotomy between NATO and the EU could be overcome by establishing the new Atlantic Community Treaty Organization. As discussed above, this new organization would benefit from blending existing hard and soft power capabilities. The OSCE should continue to play an important role, because most of its field activities address the root causes of soft power, such as the establishment of democratic principles and institutions. Furthermore, the OSCE's presence in such important areas as the Caucasus and Central Asia make it extremely well positioned to help the Atlantic Community Treaty Organization stabilize these potential seats of crisis in a coherent and concerted way.

Finally, international financial and trade institutions must be viewed as the instruments through which soft power can bear economic fruits. To this end, the international trade and financial architecture needs to be further developed by paying more attention, *inter alia*, to the crucial mutual dependencies

between the transition to a market economy and the necessary cultural and societal adaptations³²; the relationship between trade liberalization and security policy (e.g., terrorists seem to have benefited from the liberalization of financial and telecommunication markets); as well as intellectual property rights, health issues, and regional development (e.g., the role of pharmaceutical firms in providing AIDS treatment to the developing world).

Expand the Role of Cultural Diplomacy

A key instrument in socialization and the construction of a common heritage, cultural diplomacy has diminished in importance since the end of the Cold War.³³ But the value of culture as a means of forging trust has been rediscovered recently in the form of so called “hearts and minds campaigns” especially targeted at the Muslim world. However, it is simply not enough to use these campaigns as mere one-off solutions to convince people that, for instance, falling bombs are not directed at them but at their leaders. In dealing with the countries that have so far not benefited from the “Western model” and thus tend to oppose it, cultural knowledge is indispensable to understanding the complexities of these societies. Compared with other policy instruments, cultural exchange programs, education and training, and other forms of cultural diplomacy are extremely cheap, but yield a high long-term return by broadening our understanding and forging personal ties. For this reason, Atlantic Community members should come up with a soft-power culture strategy that identifies ways of opening our culture to other peoples and entering into sustained dialogue with them. Existing international cooperation schemes for key areas such as the Mediterranean region should be harmonized; budgets and the existing infrastructure of embassies, cultural foundations, and even trade associations could be developed cooperatively in order to yield maximum benefit for all participants; and civil society networks at home and abroad should be actively engaged and strengthened.³⁴

The Age of Coziness is Over – Now Comes the Hard Work

“For the first time since the 1940s,” French security expert François Heisbourg

³² Michael Mosseau, “Market Civilization and Its Clash with Terror,” *International Security* 27:3 (2002–3): 5–29.

³³ For a discussion of one recent example, the impressive photograph exhibition “After September 11: Images from Ground Zero,” see Liam Kennedy, “Remembering September 11: Photography as Cultural Diplomacy,” *International Affairs* 79:2 (2003): 315–326.

³⁴ The OSCE’s Mediterranean Partners for Cooperation include Algeria, Egypt, Israel, Jordan, Morocco, and Tunisia. NATO’s Mediterranean dialogue covers the same countries and also includes Mauritania. The EU’s Barcelona Process includes the OSCE’s partner countries and the Palestinian Authority, Lebanon, Syria, Turkey, Cyprus, and Malta. In addition, the EU maintains a complementary Middle East Peace Process and relations with Middle Eastern countries in the Gulf region.

argues, “we have no shared visions of international governance [and] no common defense strategy.”³⁵ At this stage of transatlantic relations, as mutual antagonisms still simmer across the Atlantic, it will thus be difficult to begin the process of enhancing the framework for transatlantic cooperation. Although we see no “hidden hand” that will automatically steer the transatlantic couple toward a bright common future, we remain optimistic with regard to their ability to overcome the rift. Solving the current differences is a hard sell, but it will be facilitated by some long-term trends.

On the one hand, the American people do not want and will not support U.S. policies whose consequences include responsibility for post-war reconstruction wherever U.S. forces intervene to defeat dictators or ferret out terrorists. Likewise, the implementation of legitimate foreign policy goals – such as fostering democracy, the rule of law, and human rights – through illegitimate means can ultimately cause what the National Security Strategy seeks to avoid: the emergence of a new power center to rival the United States.³⁶ The best way to share the burdens of maintaining international peace and stability and to secure international legitimacy is to work with like-minded allies. In spite of recent differences, the European members of NATO and the members of the EU are the closest thing the United States will find to “like-minded” nations anywhere in the world. Despite their shortcomings, international organizations remain the most effective tools for fostering broad international consensus and legitimacy and orchestrating international actions (e.g., harmonizing anti-terrorist activities, defining and monitoring standards for cooperation, supporting and facilitating the rebuilding of failed states) that are in the U.S. long-term interest.³⁷

On the other hand, the process of building Europe will continue, but the varied European reactions to the war against Iraq demonstrate how diverse Europe remains. Europe cannot be successfully constructed within a framework of transatlantic discord. Successful construction of a more united Europe will be possible only in the context of a functional transatlantic relationship. There can be no doubt that European nations will have to substantially rethink the EU’s foreign, security, and defense policy to come up with consistent concepts to address the new security challenges of the twenty-first century. The lesson to be learned from the recent rift over Iraq, however, is not that Europe should advance these alternatives as a counterweight against Washington, but that the two parties should discuss and develop them together.

And so the bottom line for both the United States and Europe is that

³⁵ François Heisbourg, “How the West Could Be Won,” *Survival* 44:4 (2002–3): 145–155; 153.

³⁶ Thomas Risse-Kappen, “Es gibt keine Alternative! USA und EU müssen ihre Beziehungen neu justieren” [There is no alternative. U.S. and EU must readjust their relationship], *Internationale Politik* 58:6 (2003): 9–18; 16.

³⁷ Mats Berdal, “The UN Security Council: Ineffective but Indispensable,” *Survival* 45:2 (2003): 7–30, especially 20–25.

they must find a way to move on. On the European side, a greater willingness to see the advantages of hard-power capabilities must be combined with increased resources to create hard-power options, or at least the possibility for European nations to contribute to hard-power solutions. On the American side, the United States needs to find a better balance between soft and hard-power instruments in its foreign and security policy tool kit. NATO remains relevant as an instrument for building transatlantic coalitions to deal with contemporary security problems. The OSCE is critically important for the application of soft-power resources to problems within its area of influence. A new Atlantic Community Treaty Organization would provide a framework for bringing U.S. and European soft-power resources to bear on problems beyond the North Atlantic region where the United States and Europe have common interests.

A soft-power solution will not obviate the need for credible military options. However, an effective marriage of U.S. and European soft-power resources could help prevent some problems from becoming military conflicts. It could enhance the ability of the international community to deal with post-conflict scenarios in ways that promote stability. Future transatlantic cooperation will require an effective blending of soft and hard-power resources from both sides of the Atlantic. The question today is whether the United States will continue down a unilateralist path, relying heavily on hard power, or will find a balance between the use of its hard and soft power that strengthens alliances, wins the hearts and minds of potential adversaries, and reduces the occasions on which the United States would actually have to use its impressive hard-power capabilities. Establishing the new Atlantic Community Treaty Organization would be a good first step in this direction.

The Trade-offs between Security and Civil Liberties in Russia's War on Terror: The Regional Dimension

NABI ABDULLAEV AND SIMON SARADZHYAN

Abstract: This article focuses on Russia's antiterrorist campaign in 2000–04 to discern and analyze dynamics in the trade-offs between security¹ and liberties. An analysis of these trade-offs in four separate regions of the Russian Federation demonstrates that enhancing the powers of the security apparatus at the expense of liberties may help reduce the threat of terrorism in the short-term, as local agents of terror divert part of their operations to freer regions. However, such a strategy eventually backfires at the local level, as suppression of liberties generates political resentment, one of the root causes of terrorism.² The repressive laws and practices presented by the authorities as the price the public has to pay in the war on terror can bring only limited short-term gains in this war, while producing a lasting detrimental effect on freedoms and civil liberties in Russia. Moreover, given the fact that Russia is in a state of transition, the intended and unintended effects of the authorities' antiterror policies in the researched period, and beyond, could determine the course of Russia's political development.

Key words: civil liberties, political violence, Putin, regions, Russia, terrorism

This article begins by outlining our methodology, including an explanation of the criteria used to select the research period and the regions³ to be studied, as well as a list of the watch points used to evaluate the scale of terrorist threats, the effectiveness of authorities' responses to these threats, and the impact on civil liberties.

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This article has an overview of the horizontal escalation of the terrorist threat in Russia, the authorities' responses to this escalation, and the impact of their responses on liberties in 2000–04. The empirical data covering the regions in question—the Chechen Republic (Chechnya), the Republic of Dagestan, Moscow, and St. Petersburg—came not only from open sources, but also from interviews with experts and officials, inquiries with relevant government agencies, and extensive field research.

This article explains why official antiterrorist efforts largely failed in three of the four regions over the researched period, and has policy recommendations on what authorities should do to break the vicious circle of suppression and resentment. The recommendations are followed by appendixes that list and describe the most significant terrorist attacks in the Chechen Republic, the Republic of Dagestan, Moscow, and St. Petersburg in 2000–04.

Methodology

Definition of Terrorist Attack

There are differences in the expert and academic communities as to what constitutes a terrorist attack. This article uses the definition that is common among experts on this subject: an act of political violence that inflicts harm on noncombatants, but is designed to intimidate broader audiences, including official authorities, and is an instrument of achieving certain political or other goals.

Researched Period

The terrorism threat in Russia made a qualitative leap in 1999, when a wave of apartment building bombings rocked three Russian cities, including the capital. We chose, however, to analyze the period of 2000–04, because it coincides with President Vladimir Putin's first term in office.⁴ Although Putin formulated the executive branch's antiterror policy after becoming director of the Federal Security Service (FSB) in 1998, he did not have the opportunity to implement his vision until he was elected president in the spring of 2000.

During his first term, Putin slowly reversed the policies of his predecessor, Boris Yeltsin. Yeltsin preferred a decentralized administrative model for ruling the country, giving broad powers to the regions, while largely avoiding the suppression of civil liberties—except in Chechnya—even during the first Chechen war. Putin, by contrast, believes that only a highly centralized government can prevent the disintegration of Russia at the hands of North Caucasian separatists and terrorists. He continues to act on this belief, staunchly implementing a national security model for fighting terrorism that suppresses civil liberties for the collective good.

Researched Regions

The research in this article focuses on two Russian territories—the Chechen Republic and the Republic of Dagestan—and two cities—Moscow and St. Petersburg.

Dagestan and Chechnya are paired together because both suffer from terrorism and a suppression of civil liberties. Both republics are largely Muslim and their political, economic, and social realities are shaped by clan rivalries. Both are behind

the majority of other Russian regions in terms of economic and social developments and both have a mountainous terrain that is advantageous for terrorists.

Moscow and St. Petersburg are paired together because these cities are the largest business, cultural, and administrative centers in Russia. They outperform other territories in terms of economic and social developments. Their residents enjoy a relatively high level of freedom. Both cities have a large community of people from the North Caucasus, but only in Moscow have people from this community assisted in organizing terrorist attacks. St. Petersburg has not experienced a terrorist attack, even though it has a number of symbolic targets comparable to Moscow's.

One factor that has made St. Petersburg thus far immune to terrorism emanating from the North Caucasus is that the community of North Caucasus natives in St. Petersburg is more conservative and less transient than the community of natives in Moscow, as the city offers fewer opportunities for those looking to make quick money and leave.

In comparison, there are more opportunists in Moscow. They are more prepared to sacrifice the opportunity to return to the city if asked to help their compatriots in some illegal operation, as they are neither financially—nor in any other way—attached to the city in the long term.⁵

Watch Points

This article uses the following watch points to measure the level of a terrorist threat, responses to the threat, and the level of individual and collective civil liberties in the aforementioned four regions of the Russian Federation:⁶

- the number and scale of terrorist attacks;
- the number and strength of terrorist groups and other violent groups, as well as the dynamics of their motivation and capabilities;
- the number and strength of law enforcement agencies tasked with fighting terrorist organizations and other violent groups, local antiterror and security laws used by law enforcement agencies in the fight and their practices;
- and the level of individual liberties, which include the freedoms of speech, expression, assembly, movement, and the right to impartial justice and suitable living conditions.

Russia's Antiterror Campaign: Key Trends in 2000–04

Russians elected Vladimir Putin as their president in 2000 partly, if not mostly, because he promised to curb terrorism in the wake of the apartment bombings that shocked the nation less than a year before. Then, both Putin and part of the traumatized public equated terrorism with Chechen separatism, and it was the latter that the Russian army successfully defeated during the first years of Putin's presidency. However, while putting an end to the self-proclaimed Chechen Republic of Ichkeria, Russian armor did not eradicate terrorism there. As Russia's Defense Minister Sergei Ivanov observed in 2004, army units fighting terrorist groups is "like chasing flies with a sledgehammer."⁷

Moreover, terrorist networks, once based mostly in Chechnya and dominated by ethnic Chechens, have now proliferated across the North Caucasus, with

natives of neighboring republics forming their own cells to fight local and federal authorities. This trend was accompanied by the formation of tactical and strategic alliances among local and foreign jihadist elements, separatists, members of organized crime rings, and "avengers"—those whose relatives have been killed or abused by law-enforcement and military troops. People from different republics, not only the North Caucasus,⁸ but also ethnic Russians,⁹ have come together to fight a guerilla war and stage terrorist acts in the hopes of driving Russia out of the region. Many of these militants dream of establishing an Islamic state in the region and beyond. Together, they have bombed Russian cities and staged horrendous terrorist attacks, such as the Beslan massacre in North Ossetia in September 2004.¹⁰

While Russian authorities' count of terrorist attacks is flawed (it includes attacks on combatants and excludes some politically motivated assassinations), it is still useful in tracing the dynamics of the terrorism threat in Russia. According to the Emergency Situations Ministry, more than 650 people died in what it defined as terrorist attacks in the first eleven months of 2004, two and a half times more than the number of those killed in such attacks over the same period in 2003.¹¹

A cursory glance at the terrorism statistics for the four researched regions (see appendix) demonstrates that the number of terrorist attacks increased during the researched period. Incorporating terrorist attacks in other regions into these statistics would reveal the escalating trend more dramatically.

The number of casualties from terrorist attacks also grew, but not steadily (see appendix). However, adding casualties from terrorist attacks in North Ossetia, Ingushetia, and the Voronezh region, which were ostensibly related to the insurgency in Chechnya, would demonstrate a steady rise in casualties during the researched period.

While escalating their attacks, the underground networks operating in the North Caucasus have also enhanced their capability to carry out conventional operations, staging devastating attacks in Ingushetia's largest city, Nazran, and in the Chechen capital of Grozny in the second half of 2004.¹²

Almost every major terrorist attack in Russia has sparked a debate among policymakers on how to stem the tide of terrorism. With Putin's ascent to the presidency, and the subsequent consolidation of the executive and legislative branches, this debate ended with calls for new laws boosting law enforcement's powers at the expense of individual liberties.¹³ Even the Beslan massacre failed to convince federal authorities that terrorism cannot be reined in by mechanical increases in law-enforcement agencies' budgets and powers.¹⁴

Admittedly, the Kremlin's post-Beslan policy was more multifaceted than previous responses to terrorist attacks. The authorities, for example, attempted to identify the root causes of this horrific act rather than dismiss it as an act of fanaticism. Overall, however, the government continued to rely on a heavy-handed approach, calling for the further centralization of the Kremlin's power at the expense of regional administrations and strengthening its coercive forces (i.e., law-enforcement agencies) at the expense of individual liberties. Instead of being subjected to fundamental, systemic reform, the law-enforcement agencies are

routinely given more power and money in the hope that their abilities to prevent terrorist attacks will improve.

Among other measures, the Putin administration has scrapped the popular election of governors, eliminated single-mandate districts in national and regional parliamentary elections, and restricted media coverage of terrorist acts. While submitting these and other measures in the form of bills to the Parliament, President Putin and members of his government also put pressure on regional elites and the mass media to toe the Kremlin's line on what it describes as a "war against international terrorism."¹⁵ For instance, Putin accused one of Russia's national channels of making money on blood after NTV broadcast from the Dubrovka theater in Moscow seconds before a

commando raid. Following that terrorist act, the Russian Parliament passed a raft of amendments to federal laws on media and on terrorism that would have imposed severe restrictions on coverage of terrorist acts. Putin vetoed the bill in November 2002, but he made it clear that he was upset with the coverage.

"Almost every major terrorist attack in Russia has sparked a debate among policymakers on how to stem the tide of terrorism."

Russia's leading broadcast media responded in April 2003 by adopting a convention that set strict rules for covering terrorist acts and antiterrorist operations.¹⁶ The coverage of the Beslan massacre differed from the Dubrovka attack. NTV was the only national channel that provided almost nonstop coverage of the tragedy in Beslan, where more than 1,200 hostages were held by a group of terrorists. One of NTV's anchors, Ruslan Gusarov, humbly asked a security officer in a live interview if the official thought NTV had committed any violations in its coverage.

The law on countering extremism has become a landmark in terms of expanding law enforcement's powers in the day-to-day war on terror. The law, passed in July 2002, has such a broad definition of terrorism that law-enforcement agencies can apply it to a broad spectrum of political and religious organizations and individuals. The law bans the dissemination of information that "substantiates or justifies ethnic or racial superiority,"¹⁷ regardless of whether this information poses a threat. This provision allows prosecutors to classify many religious texts as extremist material.¹⁸ This provision obstructs an individual's right to collect and disseminate information.¹⁹

The law also defines any activity that "undermine[s] the security of the Russian Federation"²⁰ as extremist. Law-enforcement agencies have used this vaguely worded definition to harass environmental whistle-blowers who have exposed cases of toxic and radioactive waste dumped by the Russian military. This provision can also be used to prosecute anyone who harshly criticizes the conduct of individual officials or the authorities and, thus, it obstructs the freedom of speech.

Another provision of this law expands the range of groups and individuals who can be prosecuted for assisting in extremist activities. This assistance can be defined very broadly, covering, for instance, those whose only relationship with a terrorist is as a landlord, or even someone who provides funds or office equipment without knowing that they would be used for extremist activities. Such people can be identified as extremists and found liable under this law.

The law also allows the authorities to liquidate any organization suspected of extremist activities, violating citizens' right to association. The Prosecutor General's Office or Justice Ministry can find an organization in violation of the law and issue it a warning. If the warning remains unheeded, either agency can issue a second warning and, then, go to court and ask for the organization to be shut down. The law also allows prosecutors to suspend the organization's activities without a warrant, but the organization can appeal such a decision.

The procedure for closing a media outlet is very similar to shutting down an organization suspected of extremism. A warning may be issued in response to a publication or broadcast that supervisory authorities consider to be "substantiating or justifying a need for extremist activities."²¹ There have been cases when law-enforcement and security agencies have gone beyond this wide range of powers granted to them by the antiextremism law and other legislation.²²

Two other key bills passed in 2000–04 by the Parliament and signed into law by President Putin as part of the legal response to the escalation of terrorism include numerous amendments to the Criminal Code and the Criminal Procedures Code and give longer sentences to convicted terrorists. These amendments allow police to keep terrorism suspects in custody for up to thirty days without charging them. In comparison, those suspected of other crimes can be detained for up to three days without being charged. This measure clearly violates the freedom of movement and an individual's right to impartial justice, allowing investigators to put more pressure on a suspect in custody and giving them time to produce evidence in cases where they lack it.²³ In 2004 the State Duma passed an initial draft of a new and more repressive Law on Countering Terrorism that replaced the existing 1998 law. The bill would allow the FSB to declare a state of emergency in an area threatened by terrorist danger for up to sixty days, based on information—even if unverified—about preparations for a terrorist attack.²⁴

Law-enforcement officials in the North Caucasus have relied on existing laws in their efforts to fight terrorism. They also abused their powers by cracking down on dissent that is unrelated to terrorism, as demonstrated in the Dagestan section. In Chechnya, law-enforcement agencies have conducted extrajudicial executions during the shift from large-scale operations to seek-and-destroy patrols.²⁵

During the researched period, Russian authorities gave the law-enforcement and defense agencies tacit approval to assassinate suspected terrorist leaders both in Russia and abroad. While the FSB did not hesitate to assume responsibility for killing Jordanian-born warlord Khattab in Chechnya, no Russian agency would admit to killing the vice president of Chechnya's self-proclaimed separatist government, Zelimkhan Yandarbiyev, in Qatar in February 2004. While refusing to assume responsibility, Russian authorities demanded, and succeeded in obtain-

ing, the transfer of two Russian agents convicted of the assassination back to Russia under a Qatari court order.

Overall, despite some targeted operations, law enforcement's response to the escalation of terrorist attacks and conventional guerilla operations remains excessive and indiscriminate.

There should be no doubt that the federal authorities are aware of the scale of abuses suffered by residents of the North Caucasus at the hands of local authorities and law enforcement, especially in Chechnya, Dagestan, and Ingushetia.

However, the Kremlin ignores these abuses in a tacit trade-off, whereby Moscow provides weapons, funds, and a legitimacy that comes with being a government employee while local authorities demonstrate loyalty by brutally suppressing political dissent. However, this arrangement is failing. The dynamics of terrorist networks in these three regions and several neighboring areas in the North Caucasus clearly demonstrated in the researched period that they were on the brink of becoming failed republics. Local leaders are as abusive and corrupt as leaders in the 1990s, but they are also becoming increasingly impotent. They cannot curb the escalation of terrorism.²⁶

Paradoxically, federal and local authorities, while broadening their powers to react and, to a far lesser extent, interdict terrorist groups, do relatively little to deter terrorism, especially through economic and financial development. Companies and organizations whose associates are found guilty or charged with terrorism can expect investigations into their finances. As of 2005, Russian law prohibited the indiscriminate confiscation of property of convicted terrorists, which could be a much more effective tool for discouraging potential sponsors or accomplices than fines or liquidation of companies. One reason such a repressive measure had not been introduced as of 2005 is that the Russian public largely opposes confiscation, fearing extension of this measure to other crimes. Yet the Prosecutor General's Office and other law-enforcement agencies repeatedly called for the reintroduction of confiscation in the researched period.²⁷

In fact, the collateral damage inflicted on liberties and freedoms in this war on terror raises questions about the potential for further damage. One question is whether the authorities are striving to tighten their grip on the Russian public, which is, on one hand, becoming less sensitive to the growing death toll in the ongoing war on terror in the North Caucasus,²⁸ but, on the other, is prepared for a further curtailment of liberties if it stems terrorism. A nationwide poll conducted by the independent Levada Center after the Beslan tragedy revealed that 58 percent believe that the moratorium on capital punishment should be lifted. Another 26 percent responded that terrorist's relatives should be punished. Thirty-three percent would ban Chechens from either traveling or living in Russian cities.²⁴ A nationwide poll on terrorism conducted by the state-controlled All-Russia Public Opinion Research Center (VTSIOM) revealed an even greater preparedness to sacrifice freedoms for security. The September 2004 poll showed that 84 percent would favor the execution of terrorists even though a moratorium on capital punishment is a prerequisite for Russia's membership in the Council of Europe (CoE). Another 44 percent said they would support media censorship to support the war

on terror. Thirty-five percent would support tougher ID checks, phone tapping, and body searches.³⁰

Thirty-three percent indicated they would support the suspension of opposition political organizations to fight terrorism. Such a formidable percentage demonstrates how incumbent officials can use the war on terror when running for reelection.

The repressive laws and practices presented by authorities as the price that the public has to pay in the war on terror can bring only limited short-term gains in this war, while producing a lasting detrimental effect on freedoms and civil liberties in Russia. Moreover, given the fact that Russia is in a state of transition, the intended and unintended effects of the authorities' antiterror policies could determine the course of Russia's political development.

The case studies below discuss both the authorities' legal responses and their antiterror practices, as well as the impact of these on the four regions.

Case Studies

The Case of Chechnya

Russian authorities insist that an antiterrorist operation has been underway in Chechnya for several years, in what has given both local and federal law-enforcement agencies carte blanche to suppress individual liberties on a large scale. In the absence of effective public and official oversight, the republic has become an authoritarian state. However, security threats here are the highest of the four researched regions.

Nature and Scale of the Security Threat in Chechnya

An analysis of the violence in Chechnya shows that local militant groups almost exclusively target military and police servicemen, as well as civil servants, whom they view as collaborators. Additionally, these militant groups, made up of so-called "Wahabbists,"³¹ target religious figures in Chechnya, such as muftis and mullahs who practice traditional Islam. An analysis of the terrorism statistics shows that attacks and casualties peaked in 2002–03. It had become clear that the terrorists' conventional warfare against Russian troops would not lead to the latter's withdrawal. Suicide bombers carried out the majority of attacks in this period, which indicates an increase in the motivation strength of the terrorist networks, on par with the growth of the religious component in its ideology.

There was only one terrorist attack in Chechnya in 2004, which indicates that terrorists in Chechnya, apparently feeling that the effect of terror in the republic would be stifled by the authorities, opted to carry out attacks outside the region.

Still, not a month goes by in Chechnya without a local official being assassinated by a terrorist group. According to *Nezavisimaya Gazeta*, a Russian newspaper, more than forty civil servants, employed by either federal agencies or Chechnya's pro-Moscow administration, were assassinated from May 2000 to May 2002.³² Attacks on combatants are more frequent, with both military servicemen and policemen attacked every week. As a result of such attacks, the Defense Ministry lost 1,418 servicemen in Chechnya between January 2001 and

October 2004, according to official statistics.³³ However, while assassinating officials and attacking troops and police, the terrorists largely try to spare noncombatants to avoid alienating parts of the population that view the terrorists as freedom fighters and provide them with food and shelter.

Because authorities have taken pains to censor news coming out of the region, terrorists have largely refrained from indiscriminate, large-scale terrorist attacks that would maximize the psychological impact on the population outside Chechnya. Without being able to intimidate the Russian public or put significant pressure on federal authorities as they could in Moscow, major terrorist attacks in Chechnya are useless. However, when they cannot target combatants and collaborators, terrorists do not hesitate to launch indiscriminate attacks that cause collateral damage if there is a high probability that a legitimate target will be destroyed. This was the case with the attempted assassination of then-president of Chechnya, Akhmad Kadyrov, in May 2003. A female suicide bomber infiltrated a crowd of Muslim worshippers, but was stopped by President Kadyrov's security detail and blew herself up, killing seventeen.

The majority of attacks in Chechnya, including the major offensive on Grozny in August 2004, in which rebels killed more than one hundred people, cannot be classified as terrorist activities because they did not target noncombatants. From 2000 to 2004, there were only ten major attacks in Chechnya in which rebels killed civilians in addition to combatants and collaborators.³⁴ Some 240 people were killed and 700 wounded in these ten attacks, six of which were carried out by suicide bombers. Suicide bombings have remained the weapon of choice of militant Salafites, while the secular wing of the Chechen-based insurgency has mostly limited itself to conventional, nonsuicidal terrorism.³⁵

Russian military and police estimated that, as of 2004, the total personnel strength of militant and terrorist groups based in Chechnya was between 500³⁶ and 1,500.³⁷ It is impossible to generate a rough estimate of how many members of these groups could be referred to as terrorists. It is evident, however, that among terrorist groups based in Chechnya, groups either commanded by or associated with Chechen warlord Shamil Basayev were both the most capable and motivated. These groups have not only coordinated their activities, but also share fighters. Basayev, the informal leader of Chechnya's Wahabbists, has claimed to be fighting a holy war to establish a caliphate in the region. He maintained that some of these groups are completely independent from others. He has, in fact, established several brands that he uses to claim responsibility for different types of attacks, catering to different groups of potential sponsors, supporters, and volunteers, both in the North Caucasus and beyond. For instance, he created the *Riyad us-Saliheyh* Martyrs' Brigade to claim responsibility for most of the suicide attacks carried out on his orders. Basayev remained the most powerful of the Chechen warlords and maintained close ties with international terrorist networks, despite the deaths of important allies such as Arab militants Khattab and Abu Walid.

After Basayev, the general consensus was that Ruslan Gelayev was the second most powerful of the Chechen warlords, until he was killed in early 2004. Gelayev had specialized in conventional guerilla operations and refrained from terrorism,

as had Chechen rebel leader Aslan Maskhadov, whom Russian authorities dismissed as a figurehead with control over only a small faction of Chechen rebels.³⁸ As of mid-2005, only Chechen warlord Doku Umarov was considered to be on par with Basayev in terms of the strength of his groups.³⁹ Umarov is as radical as Basayev in his aspirations, but he is arguably more inclined to frame his activities as a fight for an independent Chechnya rather than the establishment of a caliphate in the North Caucasus.

Interdependence between Liberties and the Authorities' de Jure and de Facto Responses to Security Threats

"Because authorities have taken pains to censor news coming out of the region, terrorists have largely refrained from indiscriminate, large-scale terrorist attacks that would maximize the psychological impact on the population outside Chechnya."

Terrorist attacks occurred regularly in Chechnya despite the efforts of federal troops and police units under the command of the pro-Moscow administration. As of early 2005, after several troop reductions in 2003 and 2004, there were 80,000 federal forces in Chechnya.⁴⁰ Federal forces included Interior Ministry troops and Defense Ministry

troops, as well as FSB personnel. Most of these units report to the Regional Headquarters of the Antiterrorist Operation, located in Khankala, a town outside Grozny. In addition, the Chechen republic has its own police force, which totals 15,000, while another 5,000 servicemen reported directly to Chechnya's first deputy prime minister, Ramzan Kadyrov as of early 2005.⁴¹

When compared with other Russian regions, the relative strength of the local police force was outstanding as of early 2005: there was one policeman per fifty residents.⁴² The ratio is more impressive because most of the federal forces were actively involved in law-enforcement operations as of early 2005. The command of what the Kremlin insists is an antiterrorist operation had been initially placed under the Defense Ministry. When high-intensity warfare subsided, it was transferred to the FSB in January 2001, and then to the Interior Ministry in September 2003. The federal units of the Interior Ministry were gradually shifting the burden of policing to local law enforcement in early 2005. The transfer of command functions to the FSB and then to the Interior Ministry contributed to a shift in focus from wide-scale operations to more rigorous intelligence gathering and seek-and-destroy operations, which helped kill a number of senior warlords. Overall, however, the change in command centers did not lead to a qualitative breakthrough in fighting terrorists, even though local and federal troops in Chechnya enjoy enormous powers granted to them by Russia's antiterror laws. These laws designated Chechnya a zone of antiterror operations, where all antiterror measures are applied in full force, depriving the local population of many basic civil liberties. Freedoms of movement, assembly, and speech are among the freedoms that can be suspended indefinitely.

In its assessment of the 1998 "Law on Fighting Terrorism," which remained in force as of 2005, the Moscow Helsinki Group, a Moscow-based human rights watchdog, pointed to the absence of legal regulations detailing and governing the implementation of this law. The group's 2002 assessment also stated that Russian authorities were reluctant to fill this legal vacuum, acting on the belief that only the uncontrolled use of force by state actors and associated strongmen, such as the republic's deputy prime minister, Ramzan Kadyrov,⁴³ served as an effective tool for destroying terrorists and deterring local residents from joining terrorist groups. According to the Moscow Helsinki Group, the law had provisions that established a cause-and-effect relationship between the actions of government agents, including those who infringed on freedoms and liberties, and the actions of terrorists; however, the far-reaching extent of the counter-terrorist operation in Chechnya—in terms of both time and space—had ultimately divorced cause (terrorist actions) from consequence (response by government agents).⁴⁴

Federal and local security forces regularly abused their power. Numerous cases of torture, kidnapping, and even extrajudicial executions have been documented by human rights organizations in Chechnya. Human Rights Watch conducted a two-week study researching some fifty abduction cases in the second half of 2004. The study concluded that local police, including units loyal to or under the command of Ramzan Kadyrov, known as *kadyrovtsy*, were responsible for two-thirds of these abductions. Federal troops were responsible for the other third.⁴⁵

Local residents were often too intimidated to file complaints against *kadyrovtsy*, fearing reprisals. When they turn to prosecutors for justice, victims of abuse and their relatives find it difficult to identify the culprits, as both *kadyrovtsy* and federal servicemen often wear masks during their operations in residential areas.

The fact that federal servicemen are regularly rotated in Chechnya makes it difficult for prosecutors to solve crimes. By the time an investigation is underway, a culprit could be hundreds of miles away. One far-reaching consequence of this practice is the export of police abuse from Chechnya to the rest of Russia. Servicemen who committed crimes in Chechnya and were not punished sometimes try to replicate the brutal and unlawful practices they employed during their time in the republic after returning to their home regions. Servicemen who fought rebels in Chechnya are also more likely to harass natives of the North Caucasus outside the republic, as some of them developed racist attitudes while fighting there. These men, who sometimes suffer from posttraumatic stress syndrome, are also less fearful of possible prosecution if they were able to commit abuses in Chechnya and not be punished.

A 2005 report by Memorial, a respected human rights organization, indicates that some of the crimes committed by servicemen in Chechnya are not prosecuted. The report found evidence of 396 abduction cases in 2004. However, Chechnya's interior minister, Ruslan Alkhanov, said that only 168 people were kidnapped in the republic in 2004, while Prosecutor General Vladimir Ustinov put the number at 218. Meanwhile, Chechnya's chief prosecutor, Vladimir Kravchenko, announced in February 2005 that a total of seven ethnic Chechen law-enforcement officers were convicted for involvement in abductions in 2004.⁴⁶

The contrast between the number of kidnappings that human rights organizations have attributed to law-enforcement officials and the number of policemen convicted of such crimes in 2004 clearly demonstrates that there is no rule of law in Chechnya.

In addition to the unspoken assumption that all federal law-enforcement bodies in Chechnya should support each other, another reason prosecutors in the republic do not rigorously investigate crimes is because they are rotated in and out and, thus, have little incentive to excel during their stints in Chechnya.

When servicemen accused of crimes against Chechen civilians stand trial outside Chechnya and evidence of their guilt is overwhelming, there is still no guarantee that they will be convicted. This was the case with Captain Eduard Ulman and three other Russian army commandos who were acquitted in April 2004 of shooting six Chechen civilians, even though they admitted in court they had mistakenly opened fire on the van in which the civilians were riding. The jury in the southern Russian city of Rostov-on-Don accepted the officers' defense that they were following orders, and some of them even applauded as the four were released.⁴⁷ In addition to highlighting the fact that Chechens are often denied the right to due process, this verdict also demonstrated the ethnic divisions in the Russian public's consciousness, reflecting a growing phobia of Chechens and natives of the North Caucasus in general among ethnic Russians, who made up the bulk of the jury.⁴⁸

The numerous crimes committed by servicemen against civilians in Chechnya demonstrate that there was a disturbing lack of official oversight during the researched period. The military prosecutor's office, which is responsible for ensuring that the police and army comply with the law, has largely turned a blind eye to abuses of civilians by police and soldiers. Moreover, police and military groups also carried out seek-and-destroy operations in Chechnya without informing Chechnya's Interior Ministry. The local prosecutor's office was either unaware of their activities or turned a blind eye to them. Those groups included the so-called Joint Special Groups, which consist of officers from the FSB and commandos from the Interior Ministry. These forces, which were tasked with hunting and killing rebels, reported to the Regional Headquarters of the Antiterrorist Operation in Khankala. There were also the so-called Temporary Specialized Operative Groups (TSOGs), which consisted of Interior Ministry central staff officers that reported to the ministry in Moscow rather than to the Regional Headquarters of the Antiterrorist Operation. Tasked with killing rebels, the TSOGs were not required to document their activities, except through photographs.⁴⁹

There was no sufficient public oversight over the conduct of the police and troops or of the authorities in general. There are no publicly available official statistics on the number of nongovernmental organizations (NGOs) registered and operating in the republic. According to the editor of Chechnya's most influential independent newspaper, there were 300 NGOs registered in Chechnya as of 2004, including ten large organizations that focused on the monitoring and protection of human rights.⁵⁰ Additionally, some twenty international NGOs, including both humanitarian aid and human rights organizations, were active in Chechnya as of

2004.⁵¹ However, reports about abuses of the civilian population compiled and disseminated by these NGOs had a limited effect on the local law-enforcement and public administration systems. Moreover, NGOs' attempts to protect the local population's human rights provoked a backlash from the authorities, who are willing to use any pretext to shut out critical voices.

Due to this intolerance of criticism, there is virtually no independent media in Chechnya. As of 2004, there were only two independent local newspapers, *Chechen Society* and *Voice of the Chechen Republic*.⁵² There were forty-eight print media outlets in Chechnya as of April 2005, or one paper per every 20,800 citizens.⁵³

The authorities rigorously control local broadcasts and online media. The federal television channels portray a rosy picture of Chechnya, omitting the ongoing abuses of local residents: both the local branch of the All-Russian State and Radio Television Company (VGTRK) and the State Television and Radio Company of the Chechen Republic (GTRK ChR) provide virtually no critical coverage. Of all the national news channels available in Chechnya, only Ren-TV offers independent coverage, but this privately owned channel has little political influence due to its limited viewership. There were no independent radio stations in Chechnya as of 2005. With the exception of two Internet cafes in Grozny, Chechen residents did not have Internet access as of early 2005. Obviously, in the absence of independent media, NGOs cannot influence public opinion or exert pressure on the authorities.

While common in Russia the lack of checks on the executive branch of power in Russia is especially striking. Not only are local courts not independent, the republic did not even have a parliament as of early 2005. Given the massive vote-rigging reported during the federal parliamentary elections in 2003, and the presidential election in 2004,⁵⁴ there was no doubt that the republic's parliament, which Chechens elected in the fall of 2005, was filled with loyalists who do not question the conduct of the executive branch.⁵⁵

As stated above, law enforcement and the military have been empowered by law to restrict the movement of civilians within Chechnya, as long as it remains an antiterror operation zone. They continuously exercised this right in the researched period through roadblocks and checkpoints, as well as imposing curfews in individual settlements. The number of roadblocks has been reduced, but bribes are often extracted for passage at these roadblocks, which continue to operate even though terrorist groups can easily bypass them. In some cases, terrorists have reportedly bribed their way through these checkpoints. However, these roadblocks and curfews hindered the lives of law-abiding civilians and severely restricted their freedom of movement.

Freedoms of speech and political association were seriously limited in the researched period. Branches of several national parties, including the pro-Kremlin United Russia (YeR), the Union of Right Forces (SPS) and the liberal Yabloko, were officially registered in Chechnya as of 2005. However, there was no political party representing those who favored independence for Chechnya but rejected the use of violence to achieve it as of early 2005. Meanwhile, a Chechen Sinn Fein would not only allow moderate separatists to participate in politics, but would help curb terrorism, as repression and the lack of political

representation are among the major factors that fuel terrorism, as some authoritative papers on the subject argue.⁵⁶

The effective ban on nontraditional religions and allowing people to practice only Sunni Islam and Russian Orthodox Christianity, significantly limits religious freedom. Other religious organizations cannot preach or hold services without registering with the Justice Ministry's local branch. Such limitations leave little alternative for those Muslims who do not wish to be a part of the local, government-sponsored Sunni hierarchy but to join an underground Islamist organization.

Finally, as of early 2005, a formidable number of Chechen civilians continued to be denied the right to appropriate living conditions.⁵⁷ The last Chechen refugee camp in Ingushetia was shut down in June 2004. Local authorities managed to convince or coerce most of the refugees to return to Chechnya or settle elsewhere. However, the authorities have been slow to compensate Chechen residents whose houses or apartments were destroyed. As a result, thousands of people could not return to Chechnya or they had to live in temporary dormitories for internally displaced refugees. It should be noted that ethnic Russians have also suffered from the lack of appropriate living conditions. An estimated three hundred thousand ethnic Russians left Chechnya in the 1990s to escape fighting and discrimination in Chechnya. The lack of appropriate living conditions is exacerbated by rampant unemployment, which was as high as 80 percent as of 2005,⁵⁸ as compared with the national average of 8.5 percent.⁵⁹ The fact that the Federal Statistics Service⁶⁰ had no data on the number of small businesses in the republic demonstrates that there are virtually no small businesses registered in impoverished Chechnya. Poverty, along with slow growth, helps terrorist recruitment, according to an authoritative and extensive study of factors explaining which countries risk sinking into a civil war.⁶¹

Conclusion

Chechnya shows how ineffective it is to respond to terrorism by constantly expanding the powers of security services at the expense of individual freedoms. Nowhere else in Russia did the security services enjoy such enormous powers with minimal oversight, public and official, in the researched period. Nowhere else is the executive branch so dominant, with a judicial branch that simply toed the official line and a legislative branch that has yet to be formed. Nowhere else are liberties and freedoms so suppressed for the sake of fighting terror. And, yet, nowhere else did insurgents and terrorists strike so often and on such a large scale, all the while using Chechnya as a recruitment pool and springboard for deadly strikes in neighboring regions, as well as locations as far away as Moscow in the researched period.

The Case of Dagestan

Dagestan is second only to Chechnya, and possibly Ingushetia, in terms of the breadth of the local security service's powers. However, despite being given a virtual *carte blanche* by the authorities, the Dagestani security services have failed to stem the rise of terrorism. Violent attacks against officials and official buildings were reported almost weekly.

Nature and Scale of Security Threats in Dagestan

Dagestan remains a battleground between competing clans that form the local ruling elite, organized crime gangs, religious groups representing different brands of Islam—including proponents of establishing a caliphate in the region—and individuals who seek to avenge personal grievances caused by the authorities. In such a landscape of multiparty conflicts, it is often difficult to discern whether a particular attack was intended to terrorize the public, an episode of gangland conflict, or an act of revenge against a local strongman and his retinue.⁶²

Local law enforcement classify any attack on the local authorities as a terrorist attack perpetrated by the Wahhabists, even if the attacked official is part of a commercial dispute, which routinely end in contract killings.⁶³ The republic's prosecutors initially qualified more than one hundred attacks as terrorist acts in 2000–04. Some of these cases were reclassified as investigators identified possible motives and suspects.

“The effective ban on nontraditional religions and allowing people to practice only Sunni Islam and Russian Orthodox Christianity, significantly limits religious freedom.”

One reason why Wahhabism is perceived to be so strong in Dagestan is that religious radicals are very motivated and not prone to negotiations. Religious dissent in Dagestan was competing fiercely with the so-called traditional Islam that had been adapted to accommodate the local culture and social norms. This required preachers that Russian authorities brand as Wahhabists to compete for hearts and minds.

Islam has traditionally been strong in Dagestan, when compared with other Russian regions. This is probably due to the long history of Islam in the area. The first preachers of Islam are believed to have appeared in Dagestan in the eighth century. Also, there was an Islamic state in Dagestan established along Sharia rules in the mid-nineteenth century by Imam Shamil.

Islam in Dagestan persisted through the Soviet period and soared after its disintegration. After the collapse of the Soviet Union, Dagestanis constituted two-thirds of the people from Russia who made pilgrimages to Mecca. Casualties from terrorist attacks in Dagestan fell in 2002. If the number of attacks against Dagestani security services in 2003–04 are taken into account,⁶⁴ it is obvious that violence increased.

Unlike Chechnya, where the antiterror campaign in the researched period was waged predominantly by the federal military, police, intelligence agencies, and local servicemen, who report to senior officials in the republic, fought the terrorists in Dagestan. Because Dagestani security services committed abuses, the majority of attacks in Dagestan were directed at them rather than federal officials.

In addition to the religious motives behind terrorist attacks in Dagestan, ethnic and clan rivalries remain a strong factor behind the violence. Some experts on Dagestan assert that armed underground factions, divided along ethnic lines

have penetrated the security services and used them to garner power by attempting to direct crackdowns against rival factions.⁶⁵

The deadliest attack during 2000–04 was the bombing of a military parade in the town of Kaspiisk on May 9, 2002. A powerful roadside bomb exploded near a military unit that was marching in commemoration of Russia's Victory Day. The bomb killed forty-three people and wounded some 170. Of those killed in this blast, at least sixteen were servicemen, while the rest were civilians, including twelve children.

Local security services accused one of Dagestan's leading Wahhabists, Rapani Khalilov, of ordering the attack, but he has denied this.

The Kaspiisk explosion is strikingly different from the attacks in Chechnya, where local groups try to avoid civilian casualties. This attack demonstrated that the Dagestan-based groups will kill large numbers of civilians to maximize casualties among combatants. Another example is the 1999 apartment building bombing in Buinaksk. Six Dagestanis, some of them tied to the Chechen warlord Khat-tab, were convicted in this bombing in 2001.⁶⁶

While prepared for collateral damage resulting from their attacks, the Dagestani-based groups of extremists and terrorists generally prefer to target those whom they perceive as legitimate targets, such as local officials, predominantly from security agencies, and federal servicemen stationed in Dagestan.

The most prominent victim of the assassination campaign in Dagestan in 2000–04 is Magomedsalikh Gusayev, the republic's minister for interethnic policy, information, and foreign affairs. Gusayev died in an explosion caused by a bomb placed on the roof of his car in August 2003. Dagestani prosecutors have accused local Wahhabi leaders of ordering the attack, but no suspects were detained as of April 2005.⁶⁷

While civilian officials, such as Gusayev and Makhachkala Mayor Said Amirov, are victims of attacks, it is police and security officers who are targeted most often by extremist and terrorist groups, as well as by personal avengers. In 2003–04 more than sixty officers of Dagestan's Interior Ministry and the regional branch of the FSB were killed in terrorist bombings, ambushes, drive-by shootings, and shootouts.⁶⁸

The perpetrators of the majority of these murders have ties to Dagestani Wahhabi leaders such as Khalilov and Rasul (a.k.a. "Muslim") Makasharipov, a close associate of Chechen warlord Shamil Basayev.⁶⁹ Some members of these groups—which mostly target senior police and FSB officers investigating organized crime, religious extremism, and terrorism—are motivated by personal grievances rather than religious ideas.⁷⁰ In addition to revenge seekers, such groups also attract socially disadvantaged and religiously radical youth.

The nature and scale of terrorism in 2000–04 demonstrates that terrorist networks are strongly motivated, well equipped, and well financed. They are resilient and increasingly audacious in their campaign against local law enforcement, despite brutal responses that are intended to intimidate potential recruits.

Interdependence between Liberties and the Authorities' de Jure and de Facto Responses to Security Threats

Attacks against officials and official buildings became increasingly frequent during the researched period, despite the fact that the personnel strength of the law-enforcement and security task forces in Dagestan is among the highest nationwide.⁷¹ There are 25,000 Interior Ministry personnel in Dagestan or one policeman per one hundred citizens—one of the highest ratios in Russia.⁷² Dagestan is also the only Russian region that has a specialized department to fight religious extremism.

Information on the number of security officers in the republic is not publicly available, but judging by media reports about antiterrorist activities in Dagestan, it is obvious that the local branch of the FSB is well equipped. Investigative teams sent from other regional branches of the FSB and from Moscow reinforce local agents.

Dagestan is also home to four military brigades and several units of the Federal Border Guard Service, which are stationed at the Azeri and Georgian borders.

In December 2000, the Dagestani government ordered the administrations of each of the republic's twenty-two rural districts and seven cities to hire a special deputy head whose responsibilities would include local security and coordinating the actions of civilian authorities with the police and military.

Dagestani law enforcement recruits locally and is an active participant in local power struggles. This circumstance may perpetuate assassinations, as the strongest political players in Dagestan do not fight terrorism, but instead they seek ways to exploit assassinations for their own political benefit.⁷³

In September 1999, Dagestan became the first Russian region to pass its own law designed to fight different forms of extremism. The law, titled "On Countering Wahabbism and Other Extremist Activity," was passed by the Parliament shortly after Islamist militants, led by Shamil Basayev, invaded Dagestan from then-independent Chechnya. The initiative was unveiled by the Spiritual Board of Dagestani Muslims, and instantly won support from its allies in the Parliament.

The law has been severely criticized by Islamic scholars and human rights groups because it permits prosecuting people for their religious beliefs. The law was also criticized for its vagueness—it provides no clear definition of Wahhabism or extremism, which allows local law enforcement to apply it to a wide variety of individuals and groups. The law also grants executive powers to the local pro-government religious organization, the Spiritual Board of Dagestani Muslims.⁷⁴

This law has provided a pretext for massive crackdowns on practicing Muslims, which routinely ended with extortion and abuses. It allows police to detain individuals on charges such as possession of extremist literature. The law also allows security services to decide what constitutes an act of extremism.⁷⁵

These and other actions by the authorities have obstructed freedoms of religion, speech, and assembly.⁷⁶ With attacks against government targets increasing, law enforcement has been gradually widening the scope of its crackdowns to target Muslims who preach independently. This move has backfired, with dozens of abused, young Muslim men joining antigovernment groups or creating their own. The right to due process is consistently violated in Dagestan. Both prosecutors

and judges ignore most of the numerous complaints filed by citizens concerning the illegal detention and torture of suspects.

Detainees suspected of belonging to radical Muslim groups are often kept in custody for periods of time that far exceed those allowed by law, and they are denied the right to an attorney.⁷⁷ These facts indicate there is no official oversight of law enforcement, either by locally designated officials or officials at the federal level.

Representative government bodies that could oversee law-enforcement officials, such as the Parliament, have abandoned this responsibility since they are beholden to the executive branch.

Under Dagestani law, citizens were not allowed to participate in the election of the governor, while the local parliament was formed on the basis of ethnic quotas, which were granted to only fourteen of the more than sixty ethnic groups in Dagestan. This provision violates the constitutional right of citizens to representation in government bodies. Also, citizens do not have equal access to the civil service because existing legislation and tacit agreements among the republic's elite have put state jobs in the control of local clans. They failed to ensure rotation of the representatives of ethnic groups in these posts as the previous version of Dagestan's constitution required.⁷⁸

These legal provisions have helped several clans dominate all three branches of power and preserve the status quo. Investigations into officials' actions could upset the existing balance of power and are therefore avoided. Putin's decision to appoint regional leaders and have local parliaments elected on party tickets threatens this balance in Dagestan and exacerbates the possibility of ethnic conflict and a rise in terrorist attacks.⁷⁹ In a situation where oversight is virtually nonexistent, law enforcement—in an attempt to curb increasing violence—is highly likely to enhance its antiextremist measures and apply them more widely to new segments of society in Dagestan.

The federal authorities, likewise, did not attempt to curb unconstitutional practices in Dagestan: for example, while Putin has pressed all other regions to amend local laws that contradict federal legislation, an exception has been made for Dagestan, where the regional laws on fighting Wahhabism and other extremist activities, as well as the discriminatory system of forming regional government bodies, have been left intact.⁸⁰

Thus far, federal authorities responsible for oversight—such as the General Prosecutor's Office and the Parliament—have not addressed the situation in Dagestan, despite strong allegations in the national media that violence in the republic is partly provoked by the unconstitutional practices of Dagestani officials, notably law enforcement.⁸¹ Under these conditions, political opposition—particularly the kind that appeals to citizens' religious feelings—cannot help advance alternative social and political initiatives. Instead, it is forced underground, where options are limited.

Different forms of public oversight, such as a free press, are virtually nonexistent in Dagestan. As of April 2005, there were 337 print media outlets registered in Dagestan or one newspaper per 7,418 residents.⁸² However, the authori-

ties either directly own most of these print media or influence their coverage by providing discounted printing services and other perks. As a result, these newspapers and magazines largely toe the authorities' line, downplaying or turning a blind eye to abuses and corruption.⁸³

Dagestan did have two privately owned television channels, M5 and Platan, until 1999. M5 was sponsored by a prominent opposition figure, Nadir Khachilayev, and produced its own news programs. Both channels were closed after the start of the second conflict in Chechnya in 1999.

Soon after the incursion of Islamist militants from Chechnya into Dagestan in August 1999, then-Press Minister Magomedsalikh Gusayev demanded that all independent print media show him and his staff articles to be published in upcoming issues, establishing a *de facto* censorship of the press. Not a single editor objected to this. The practice was abandoned several weeks later, but the patron-client relationship between Dagestani officialdom and the media persists. Local journalists, including Dagestan-based stringers for national newspapers, who dare to write critical reports about the republic's government and the government-backed Muslim religious authorities, are routinely intimidated by government officials and senior clerics.⁸⁴

In addition to being among the most repressed of Russia's citizens, the residents of Dagestan are also among the poorest in Russia. As of 2004, there were only 1,400 small businesses registered in Dagestan,⁸⁵ or approximately one enterprise per 1,685 citizens. The republic had an unemployment rate of 26 to 27 percent in 2004, compared with a national average of 8.5 percent.⁸¹ These statistics suggest that Dagestanis are less capable of exercising the right to appropriate living and social conditions.

Moreover, there is a high degree of economic stratification in Dagestani society, which generates discontent and, eventually, contributes to the growth of extremism. Poverty, coupled with slow economic growth, is conducive to terrorist recruitment.

Conclusion

The case of Dagestan demonstrates the ineffectiveness of expanding the *de facto* powers of law enforcement and eliminating official and public oversight over law-enforcement officers' actions.

This lack of oversight has led to wide-ranging abuses of power by regional officials who are responsible for ensuring law and order. The government-led suppression of civil liberties has not resulted in a marked reduction of the security threat in Dagestan.

The Case of Moscow

Moscow is home to a wide range of extremist organizations, but the city did not have endemic terrorists as of early 2005. Moscow had one of the highest concentrations of law-enforcement and security agents in Russia during the researched period. Local law enforcement was well armed and Moscow city regulations gave it more powers than federal security laws. However, these powers were subject to

relatively robust official and public oversight. Meanwhile, over the researched period, Moscow became the primary target of North Caucasus terrorists.

Nature and Scale of Security Threats in Moscow

With the exception of Chechnya, no other territory has suffered as many terrorist attacks as Moscow in the researched regions. The number of terrorist attacks in Moscow grew steadily over the researched period, reaching its peak in 2004. Suicide bombers carried out all of the terrorist attacks in Moscow (except one), which demonstrates a high level of motivation.

The year 2004 also saw the highest number of casualties in Moscow—eclipsing 2002, when 130 hostages died at Moscow's Dubrovka theater.

Moscow has dozens of federal buildings, historic landmarks, and other highly symbolic targets. Extremist groups who believe they are fighting a war of independence, are inclined to try to strike at the capital of the enemy state.

More important, such groups figure that terrorist attacks in Moscow maximize the psychological impact—not only on the groups' own constituencies and the local authorities, as is the case in Chechnya and Dagestan, but also on the federal authorities, the general public, and the international community. The powerful impact of terrorist attacks is ensured by the relatively independent local media and foreign journalists, who have larger audiences than other Russian regions.

Thus, Moscow has continuously been targeted by groups that are either based in, or originate from, the North Caucasus, but want to influence decision making at the federal level through terrorism. They want to secede from Russia, compel the Kremlin to take part in peace talks with Chechen warlords, withdraw troops from Chechnya, and pursue other objectives at the national level.

From 2000 to 2004, North Caucasus-based groups attacked Moscow ten times. As a result, more than 290 people were killed and more than 200 were wounded (see appendix). Groups commanded by Chechen warlord Shamil Basayev, or associated with him, have either claimed responsibility for these attacks or have been accused by Russian law enforcement of organizing them.⁸⁷ Seven of the ten attacks were suicide bombings. (Suicide bombings have become the tactic of choice for terror networks in the past few years because they require little training and are hard to prevent.) All of these suicide attacks were designed to kill civilians; none attempted to assassinate individual officials.

Organizers of suicide bombings have attempted to force the Kremlin into conducting peace talks with Chechen separatists and withdrawing troops from Chechnya. The terrorists who took some 800 people hostage at Moscow's Dubrovka Theater in October 2002 put forward these same demands. Of all the terrorist attacks in Moscow during 2000–04, it was this episode that caused the most deaths. The organizers would often seek to portray suicide bombings as acts of martyrdom.⁸⁸ Investigations of the Dubrovka attack and other attacks revealed that members of these terrorist groups did not hesitate to solicit assistance from rogue or unsuspecting natives of their home regions living in Moscow.⁸⁹

Their ability to obtain such assistance, both from law-abiding citizens and members of organized crime groups, lies partly in the nature of Moscow's Chechen

diaspora, which appears to be more fluid and transient than in other cities, including St. Petersburg. As Russia's financial center and wealthiest city, Moscow offers more short-term opportunities for natives of Chechnya and other Russian regions to make fast money, both legally and illegally. One piece of evidence suggesting how attractive Moscow is to migrant criminals, known as *gastrolory*, or people on tour, is that non-Muscovites committed 42 percent of all crimes in 2004.⁹⁰ Such opportunists, who do not value the chance to live in Moscow, would be more prepared to help people from their native communities in some illegal operations. Overall, however, Moscow's Chechen diaspora, which numbers around one hundred thousand, and natives of other troubled regions avoid any involvement in terrorism. Their leaders have repeatedly condemned terrorist attacks.

Although no terrorist networks operate in Moscow, it was home to a broad spectrum of extremist and radical organizations in the researched period. Of these organizations, it is racist groups that are most prone to violence. Violent attacks on dark-skinned foreigners and North Caucasus natives occur regularly in Moscow, where the number of skinheads was estimated at about 5,000 in 2003.⁹¹ Such groups increasingly sought to justify racially motivated assault—including a September 2004 attack on several Caucasus natives in the Moscow subway after the Beslan massacre as revenge for terrorist attacks by Caucasus natives. Paradoxically, the so-called skinheads and the perpetrators of these terrorist attacks shared a common goal: to inspire animosity between ethnic Russians and North Caucasus natives. While terrorist groups hoped this would lead to ethnic strife and the secession of the North Caucasus, skinheads strove to eventually drive all non-Slavs out of Moscow and other Russian cities. It must be noted that the skinheads' aspirations won tacit support from a significant number of Muscovites as the slogan "Moscow for Muscovites, Russia for Russians," gained popularity.⁹²

Radical leftist groups, such as the youth wing of the Russian Communist Labor Party (RKRP), have attacked symbolic targets. Members of this party bombed the FSB's public reception office in 1999. In the researched period, however, neither this party nor other leftist organizations staged such attacks, apparently because security and law-enforcement agencies began pressuring them. However, radical organizations, such as the National Bolshevik Party (NBP), continue to carry out symbolic attacks, such as seizing government buildings in Moscow and throwing food at government officials.⁹³ Law enforcement's response to these largely nonviolent acts has been increasingly brutal and excessive. Several NBP activists were charged with attempting to change Russia's constitutional order, which is punishable by a lengthy prison sentence, because they seized the Kremlin's public reception office in December 2004. Although these charges were later dropped, new charges have led to prison terms of up to two years. Such excessive punishment is radicalizing the NBP and other fringe groups, and could eventually prompt them to resort to violence.

Interdependence between Liberties and the Authorities' de Jure and de Facto Responses to Security Threats

The number of Moscow's police exceeded 100,000 as of early 2005. Moscow's "daylight population" totaled 12 million in the researched period, there was one

policeman for every 120 residents. There were also thousands of other law-enforcement officials, such as servicemen from the FSB's federal headquarters staff and the Interior Ministry. However, despite the mounting casualties from terrorist attacks, the bulk of this formidable army focused on the investigation of traditional crimes.

Moscow law enforcement officials are better equipped than average Russian police thanks to additional funding from the city government. In return, law-enforcement agencies are expected to enforce municipal laws that restrict access of non-Muscovites to Moscow and are vigorous in doing so. These laws and regulations have included such Soviet-style anachronisms as the requirement to register with authorities within three days of arrival—a rule Moscow police officers have used extensively to check and detain individuals whose behavior they find suspicious or if they wish to extort a bribe, although only so-called beat policemen have been authorized to conduct routine ID checks. Such regulations and the way they are applied clearly hinder citizens' freedom of movement. The registration requirement was eventually lifted by the federal government and the grace period was extended to ninety days, but police still have the right to detain a person for up to three hours to run an ID check.

In addition to their routine work, Moscow police are also regularly mobilized to carry out official antiterror operations, known as Vikhr-Antiterror, as well as informal but sweeping checks based largely on racial profiling. Such checks usually focus on dark-skinned Caucasus and Central Asian natives and have involved the fingerprinting of Chechens in the wake of a major terrorist attack. This attitude has trickled down to the media, including Moscow's city government-controlled TV Center television channel, where interviewed law-enforcement officials often make a point of disclosing that a suspect is a native of the Caucasus or looks like one.⁹⁴

While providing law-enforcement agencies with opportunities for abusing their powers and limiting civic freedoms, procedures and operations like those described above tend to net traditional criminals, but do not build insurmountable barriers for well-trained terrorist groups. The Dubrovka attack proves this point. A large group of terrorists not only managed to go undetected by local law-enforcement agencies while preparing for the attack, but also managed to drive to the theater in a van and several other vehicles with arms.

The Dubrovka tragedy underscores the problem of rampant corruption among Moscow law enforcement. In February 2004, a Moscow policeman was sentenced to seven years in prison for granting a temporary residency permit to one of the Dubrovka terrorists in exchange for a bribe.

Police and other law-enforcement officials use ID checks and citywide search operations to extract bribes from those suspected of minor offenses in an attempt to supplement their low wages. Moscow police also routinely torture suspects to extract confessions and close cases. This abuse of power is exacerbated by the practice of evaluating police performance on the basis of the percentage of registered crimes that they solve. "The need to report that crimes have been solved or that administrative violations have been discovered is one of the main motives for

illegal detention or use of violence by police," according to a 2004 study by a torture watchdog group in Russia.⁹⁵ The case of retired naval officer Aleksandr Pumane, who was beaten to death by his interrogators after being arrested for driving an explosives-laden vehicle in Moscow in the fall of 2004, is perhaps the best-known instance of police torture.⁹⁶

In the first eight months of 2004 citizens filed 6,585 complaints with Moscow's police force's internal affairs directorate. During the same period, Moscow city prosecutors opened 198 criminal investigations against police officers, in which 127 were later charged.⁹⁷

Abuses by the police violate basic human rights and freedoms and deepen the public's distrust of law-enforcement agencies. A 2005 nationwide opinion poll found that 70 percent of respondents do not trust law-enforcement agencies and fear them. Some 72 percent of the respondents believed they could fall victim to abuse.⁹⁸

However, when compared with residents of Dagestan and Chechnya, Muscovites did have better chances to exercise their rights, including the freedoms of assembly and religion, in the researched period. Muscovites have the greatest variety of political and public organizations in the country from which to choose. As of April 2005, there were 11,500 public organizations registered in Moscow, including forty federal political party regional branches and 720 religious organizations.⁹⁹ In general, whatever nonviolent, political, or religious convictions a Muscovite harbors, he or she can pursue them either by joining an existing organization or by setting up his or her own. Moscow authorities have shown greater leniency in granting political parties and NGOs permission to register and demonstrate. However, the authorities were not fully tolerant of all groups in the researched period. For instance, the city's authorities won a case in court to deny registration to the Moscow branch of the Jehovah's Witnesses in March 2004. The federal authorities have not banned this religious group, and its branches operate freely in other Russian cities and regions. Local Russian Orthodox Christian and Jewish leaders pressured Moscow's authorities to revoke a permit granted earlier to the Hare Krishna community to build a temple.

These are only exceptions, however, that confirm the rule: for the most part, Moscow authorities pursue organizations that are either violent or advocate violence. This was the case when the city banned the Russian National Unity Party (RNYE) in 1999 and the Russian National-Imperial Party (RNIP) April 2004, both are openly racist and anti-Semitic.

Muscovites were in a better position to exercise their freedom of speech and had better access to information in the researched period. As of April 2005, Moscow had 2,071 locally registered media outlets, including both print and broadcast media, but not including the so-called federal media, such as television channels with a nationwide audience and newspapers with a nationwide circulation. While national state-controlled television channels largely avoid critical analysis of law enforcement's performance and inability to prevent terrorist attacks, the more independent print media and some local broadcast media do not hesitate to provide it. Muscovites can watch only one more or less liberal television channel, Ren-TV, which is owned by a state-controlled power grid compa-

ny, Unified Energy Systems, but is relatively independent in its coverage.¹⁰⁰ Many Muscovites, however, have satellite dishes that enable them to watch international networks such as the BBC and CNN. There are also radio stations such as *Ekho Moskvy*, which has been taken over by Gazprom, a state-controlled gas company, but is staunchly independent in its coverage. Moscow residents have a great variety of independent newspapers from which to choose, ranging from liberal heavyweights like *Kommersant* to the small-circulation ultra-left *Generalnaya Liniya*, formerly *Limonka*. On top of this, Muscovites enjoy easy access to the Internet. The Internet offers access to insightful, independent Russian news portals, such as *Gazeta.ru*, or foreign media. Such a variety of independent media ensures that Muscovites can hope that journalists will report on grievances they have against the authorities.

It is also worth noting that the headquarters of most of Russia's leading human rights organizations, such as Memorial, as well as the Russian offices of international human rights groups in Russia, are located in Moscow.

The official and public oversight was more effective in Moscow than other regions, particularly the North Caucasus, during the researched period. The system of official oversight was also more effective in Moscow in the researched period.

The Moscow prosecutor's office not only prosecutes police misconduct on a regular basis, it has also challenged attempts by the mayor's office to implement regulations that would curb rights and freedoms in that contradict federal law. More important, the executive branch is less dominant in Moscow than in other regions, with both the judicial and legislative branches providing more checks and balances. The judicial and legislative branches also exercised greater oversight over law-enforcement agencies, particularly more than the North Caucasus in the researched period.

Although the city Duma (the local parliament), was dominated by mayoral loyalists as of early 2005, its opposition was robust compared with Dagestan's parliament. There is a general consensus that elections in Moscow are among the most transparent in Russia. Moreover, Muscovites had an opportunity to elect district councils, which Chechen cities and towns did not have as of early 2005.

Local courts have regularly ruled against the authorities in cases where plaintiffs challenged local regulations, such as a decree by the city government that required individuals who lived outside the city, but owned Moscow apartments, to pay hefty sums for permanent registration. Muscovites have better access to due process than residents of Chechnya and Dagestan do.

Muscovites appeared to be better equipped to exercise the right to appropriate social and living conditions. There were 184,000 small businesses registered in Moscow as of 2004,¹⁰¹ or approximately one enterprise per sixty-five residents. Moscow's small businesses accounted for 21.5 percent of small businesses registered in Russia. Moscow also has one of the highest per capita incomes in Russia and, as of 2004, an unemployment rate of only 0.6 percent,¹⁰² compared with the national average of 8.5 percent.¹⁰³

Conclusion

Moscow offered a higher degree of freedoms and rights to its residents than the regions of the North Caucasus regions in the researched period. This allowed radical groups to exist and operate on the margins of the legal and political spectrum. Yet the city has suffered a string of terrorist attacks, which suggests that it retains the greatest appeal for groups wishing to strike the country's most symbolic targets. Moreover, terrorists' motivations to attack targets in Moscow grew over the researched period. Their choice to attack Moscow allows us to extrapolate that certain conclusions drawn by terrorism scholars in relation to other countries apply to Russia as well.¹⁰⁴ Just as terrorist groups in poorer countries tend to attack richer nations, groups from the poorer regions in Russia strive to attack the country's richest region.

Despite an imminent terrorism threat, the bulk of Moscow's law-enforcement personnel remained focused on investigating traditional crimes and prosecuting radical, but largely nonviolent, political groups, while doing less to prevent terrorist attacks in the researched period. This approach cannot make Moscow better protected from terrorist attacks because terrorists can easily bypass ID checks and other barriers that law-enforcement officials have enacted. Moreover, while this approach helps apprehend traditional criminals, it also involves abusing citizens' rights, enables police officers to extort bribes, and radicalizes persecuted groups. Not a single terrorist has been apprehended through an ID check in Moscow, while racial profiling during ID checks creates resentment.¹⁰⁵

The Case of St. Petersburg

In St. Petersburg, the security services are more liberal than in Moscow. St. Petersburg's law-enforcement agencies are not on par with Moscow's in terms of equipment and personnel strength. Public oversight, however, is as strong as in Moscow. Yet St. Petersburg has not experienced a major terrorist attack, despite being Russia's second-largest city.

Nature and Scale of the Security Threat in St. Petersburg

The absence of terrorism in St. Petersburg is notable because the city has an abundance of symbolic targets related to its vast historical and cultural heritage. It is also the home city of President Putin and many other senior officials have a demonstrated emotional attachment to the city.

Security officials and Chechnya-based networks have warned of terrorist attacks more than once, but none of these warnings have materialized. There have been a few cases when city authorities claimed that explosive caches could have been planted by terrorist groups. However, none of these cases established a firm link between the explosives and terrorist groups.

There have been several assassinations of high-ranking officials in St. Petersburg, including the city's property chief, Mikhail Manevich, and State Duma Deputy Galina Starovoitova. However, no terrorist or extremist organization has claimed responsibility for these murders, which were suspected of being commissioned by the victims' business or political rivals.

It is possible to assume that there were no terrorist groups operating in St. Petersburg during the researched period. However, while free of terrorist groups, St. Petersburg has become home to a number of extremist political organizations, of which the skinhead networks are the most numerous and violent. There are more skinheads in St. Petersburg than in any other Russian city. The total number of these young extremists, who regularly attack dark-skinned Caucasus and Central Asian natives, has been put between 10,000 and 15,000.¹⁰⁶ In 2004, for example, seven people were killed and twenty-four were wounded in St. Petersburg from xenophobic attacks.¹⁰⁷

However, while posing a serious threat to public order and racial harmony, St. Petersburg's skinheads do not have any political demands. Their violence appears to be spontaneous and not part of a strategic campaign to force the government to take any sort of action.

Interdependence between Liberties and the Authorities' de Jure and de Facto Responses to Security Threats

The relative number of St. Petersburg law-enforcement personnel is less than in Moscow. The Interior Ministry's local branch has 35,000 officers, or one officer per 135 citizens. It is difficult to determine a precise means of comparing the two cities' security and intelligence capability; however, St. Petersburg's security personnel does not have the resources that Moscow's security personnel has.

St. Petersburg's authorities have not strengthened the registration regime as a means of preventing terrorists from entering the city. Document checks on the streets and the targeting of dark-skinned Caucasus and Central Asian migrants during security operations have not become a routine practice in St. Petersburg.

Certain social groups, such as the 18,000-strong Chechen diaspora, who are routinely seen in other big Russian cities as a potential gateway for terrorists, feel much less pressure from law enforcement in St. Petersburg than in other regions, even after a string of terrorist bombings in Russian cities 1999, which were attributed to Chechen rebels, and the beginning of the second war in Chechnya.¹⁰⁸

The local North Caucasus diaspora is less transient than in Moscow. St. Petersburg is a smaller and less wealthy city and, thus, it offers fewer opportunities, both legitimate and illicit, for making quick money and leaving. Such a conservative environment makes the Chechen diaspora more attached to the city as a source of long-term income. They are less likely to collude with opportunists from the North Caucasus, be they criminals or terrorist groups.

In contrast with the attempts by law enforcement in Chechnya and Dagestan to portray local religious radicals as extremists and criminals, senior law-enforcement officials in St. Petersburg, while acknowledging the presence of Muslim radicals in the city, have said that no organized Wahhabist groups operate there.¹⁰⁹

As opposed to the other researched regions, religious communities based in St. Petersburg have not suffered severe crackdowns by the authorities. For example, the local branch of the Jehovah's Witnesses continues to operate freely.

The freedoms of movement, assembly, and speech were not undermined by the city authorities in the researched period. A St. Petersburg court refused to

consider the case of eleven young men who participated in an unauthorized protest against President Putin on the eve of his reelection in March 2004, and ordered police to release them. The demonstrators, members of a local Communist group, were wearing Putin masks and T-shirts reading "Vova, go home," marched from Putin's former apartment building to Nevsky Prospekt, the city's main street.¹¹⁰

Local branches of radical political organizations, such as the NBP or radical leftist youth organizations, did not stage high-profile protests in St. Petersburg like they did in Moscow during the researched period.¹¹¹ Also, there have been no reports about their members being targeted by local security officials.

Furthermore, an analysis of media reports and research by St. Petersburg human rights and other watchdog groups does not indicate that there are particular political, ethnic, religious, or social groups that are systematically being denied the right to due process.

However, while not radicalizing existing public, political, and religious groups in the city through the brutal suppression of their activities, the local government has clearly failed to create an adequate response to extremist groups that do not abide by the law.

The lenience and inaction of city officials are exacerbating the growing number of skinheads in the city. Moreover, in most cases, senior city officials denied the nationalist component in the skinheads' violence. For example, St. Petersburg Governor Valentina Matviyenko has consistently denied that extremist groups have attacked dark-skinned foreign students and murdered respected anthropologist Nikolai Girenko, who headed a public commission of St. Petersburg scholars defending the rights of ethnic minorities. Instead, the city's top official has insisted that the xenophobic attacks were acts of "banditry and hooliganism."¹¹² Similarly, the leadership of the St. Petersburg police has claimed that skinhead attacks are motivated mostly by greed.¹¹³

Thus far, the authorities' strongest response to hate crime has been bringing criminal charges against Dmitry Bobrov, a leader of a neo-Nazi group, in 2003.¹¹⁴ In all other cases opened during the researched period, after attacks on foreigners and dark-skinned migrants, nationalistic or xenophobic motives were not reflected in the charges.

Judging by the publications of St. Petersburg-based human rights organizations, such as Memorial, skinhead attacks on ethnic minorities pose a major threat to the city.

While there is insufficient official oversight over law enforcement's actions, whose laxness has resulted in the emergence and proliferation of ultranationalist groups in St. Petersburg, public oversight, exercised mainly by the local media, remains strong.

The St. Petersburg media—who are scrutinized less closely than the media in Moscow—remains one of the most robust in Russia. The total number of print media outlets in the city was 4,287 as of April 2005, or one paper per 1,166 residents. There are six privately owned local television stations that produce their own news broadcasts. St. Petersburg is also home to the highly acclaimed Agency

of Investigative Journalists, Russia's first, which specializes in investigating organized crime and corruption in the city and beyond.

St. Petersburg also has a robust civil society. As of April 2005, there were 6,614 public organizations registered in the city, 329 religious organizations and forty-five political party branches.¹¹⁵ This broad array of organizations allows individuals to find interest groups that reflect their political views or religious feelings, and indicates the lenience of the authorities in allowing the formation of public-interest groups.

St. Petersburg residents are more likely than North Caucasus residents to exercise the right to appropriate social and living conditions. This is evidenced by the number of small businesses registered in the city: 89,600 as of 2004,¹¹⁶ or approximately one enterprise per fifty-six citizens. As of 2004, the city had an unemployment rate of only 0.8 percent,¹¹⁷ compared with the national average of 8.5 percent.¹¹⁸

Conclusion

It would be impossible to explain why St. Petersburg was not attacked during the researched period without taking into account the terrorists' strategic considerations. When selecting a target, terrorists prefer Moscow to St. Petersburg because attacking Moscow ensures a larger impact on their target audiences. This choice proves that the symbolic significance of a target outweighs the somewhat higher risk of getting caught.

With no attacks registered in St. Petersburg, the authorities have little motivation to enhance security at the expense of liberties. However, while lenient in their attitude toward civil society, the authorities are not dismantling groups, such as skinheads, that pose a threat to public safety and racial harmony. Extremist groups have not been involved in terrorist attacks and, in the absence of excessive pressure from the authorities, it is unlikely that they will.

Conclusion

Although this article's research is limited, it is still possible to discern that the policy of suppressing liberties to enhance security is flawed.

The absence of stringent official and public oversight allows law-enforcement agencies to use excessive violence, which not only failed during the researched period to diminish the existing terrorist threat, but also radicalizes those groups and individuals who might have otherwise limited themselves to nonviolent means.

Despite a four-year antiterrorist campaign that has involved a suspension of basic freedoms and an expansion of law enforcement's powers, terrorism has persisted in Chechnya. Such an approach can check terrorism in the region in the short-term, but cannot provide a long-term solution. Heavy-handed methods of suppression could backfire because they generate resentment and turn people to extremist ideologies. Some corrupt law-enforcement officials are sympathetic to terrorists and other extremist groups, such as skinheads, which exacerbates the problem.

Repressive methods in Chechnya, coupled with law enforcement's enhanced powers, have led to the proliferation of terrorist networks in neighboring areas of

the North Caucasus. Terrorists' search for allies has been the most intensive in Dagestan, which is second only to Chechnya in the suppression of liberties, the brutality of local authorities, and Wahhabist tendencies.

Moreover, in their attempts to broaden their popular support base, terrorist groups often co-opt the rhetoric of civil liberties, which devalues these concepts in the eyes of the general public.

These groups' efforts to gain recognition as freedom fighters succeeded in regions where the opposition had been driven underground. Radical groups in Chechnya and Dagestan have won support not only by criticizing the suppression of religion and other freedoms but also by pointing out specific violations, such as grossly falsified election results. These criticisms would not sway public opinion in Moscow and St. Petersburg, which fare much better than the North Caucasus in terms of oversight and the observance of rights and freedoms.¹¹⁹

Although the law guarantees a certain degree of freedom in a region, terrorism will grow in the absence of public and official oversight of law-enforcement, as is the case in Dagestan. In comparison, the regions that have relatively abundant liberties and freedoms, and robust public oversight of law-enforcement, do not have endemic actors of terror, as is the case in Moscow and St. Petersburg.

Strong public oversight, however, would not be sufficient to rid these two regions of extremist groups in the absence of stringent official oversight of law-enforcement agencies. While robust public oversight can be effective in preventing and uncovering abuses by law-enforcement officials, it cannot force their inert agencies to dismantle extremist groups or to shift their focus from investigating traditional crimes to preventing terrorism. Only strong official oversight, not just by prosecutors but by the State Duma as well, can lead to such systemic change.

Nonetheless, such reform would not fully protect any region from terrorists. Terrorist groups in Russia would continue to target Moscow because they can achieve maximum impact on the government, people, and international community. A nearby region could have just as many symbolic targets and weaker law-enforcement, but terrorists would still target what they see as the largest *Schwerpunkte*¹²⁰ in the country.

Russia can fight terrorism without suppressing individual and collective freedoms if its law-enforcement and security agencies focus their powers and resources on interdicting terrorist attacks rather than harassing groups and individuals suspected of radicalism. However, these powers and resources should not be excessive and must be clearly defined. Antiterror and security legislation should set clear limitations on these powers, as well as on authorities' responses not only to attacks but also to the threat of attack. The legislation should define threats and specify appropriate responses to each type, including the duration of the response. The more detailed the legislation, the better. Vaguely worded laws, manuals, and procedures provide plenty of opportunities for abuse by law enforcement.

In addition to clearly defined legislation, robust official and civilian oversight would not only help prevent abuses and the illegal repression of liberties, but would also impel law enforcement to be earnest and focused in its work.

Furthermore, the criteria used to evaluate the performance of law-enforcement agencies must be changed. As of 2005, these evaluations were largely based on crime-solving rates, encouraging officers to cover-up crimes and abuse suspects to extract confessions. The performance of law-enforcement agencies engaged in fighting terror should be evaluated on their ability to stop attackers rather than punish them.

Finally, these changes will not be comprehensive or enjoy popular support if they are not transparent. Only if they are debated by the expert community and society at large, before being codified as law, will these reforms be effective, fair, and supported by the general public.

ACKNOWLEDGMENTS

The authors thank Professor Louise Shelley, director of the Transnational Crime and Corruption Center, and Associate Research Professor Robert Ortung, the center's project director, for their insightful guidance and generous advice; Arthur Martyrosyan of the Mercy Corp's Conflict Management Group, Nikolay Petrov of the Carnegie Moscow Center, Monica Duffy Toft of Harvard University's Belfer Center for Science and International Affairs, Vladimir Pribylovsky of the Panorama think tank, and Enver Kisriev of the Caucasus department at the Center of Regional and Civilization Studies in the Russian Academy of Sciences for their insightful input and generous advice. The authors also thank Anthony Latta of the Transnational Crime and Corruption Center and Natalya Yefimova of the *Los Angeles Times* for their generous editorial advice.

APPENDIX

Chronology of major terror attacks in Chechnya in 2000–2004

Date: June 7, 2000

Organization(s): Chechnya-based groups

Target: Government building

Settlement: Alkhan-Yurt, Chechnya

Tactic: Bombing

Fatalities: 2

Injuries: 5

Description: Suicide bombers drove a car loaded with explosives to an OMON police barracks in the Chechen settlement of Alkhan-Yurt and detonated it.

Date: July 2, 2000

Organization(s): Chechnya-based groups

Target: Government buildings

Settlement: Gudermes, Novogroznensky, Argun, and Urus-Martan, all in Chechnya

Tactic: Bombing

Fatalities: 33

Injuries: 84

Description: Suicide bombers used five Ural trucks with explosives to carry out five terrorist attacks in one day, including two in Gudermes, one in Novogroznensky, one in Argun, and one in Urus-Martan.

Date: December 9, 2000

Organization(s): Chechnya-based groups

Target: Public building

Settlement: Alkhan-Yurt, Chechnya

Tactic: Bombing

Fatalities: 21

Injuries: More than 20

Description: A car loaded with explosives was detonated on a square in front of the mosque in the village of Alkhan-Yurt, Chechnya. Investigators alleged that the attack was ordered by either Chechen warlord Arbi Barayev or Chechnya-based warlord Khattab.

Date: January 18, 2001

Organization(s): Chechnya-based groups

Target: Government building

Settlement: Gudermes, Chechnya

Tactic: Bombing

Fatalities: 0

Injuries: 7

Description: An attempt was made on the life of Akhmad Kadyrov, head of the administration of the Chechen Republic. A powerful explosive device was detonated as Kadyrov's motorcade passed by, damaging several of the cars. Kadyrov was not injured in the attack, although seven of his bodyguards were.

Date: October 10, 2002

Organization(s): Chechnya-based groups

Target: Government building

Settlement: Grozny, Chechnya

Tactic: Bombing

Fatalities: 25

Injuries: 6

Description: A bomb was planted inside the office of the Zavodskoi district branch of Grozny's police force.

Date: December 27, 2002

Organization(s): Riyad us-Saliheyn Martyrs' Brigade

Target: Government building

Settlement: Grozny, Chechnya

Tactic: Bombing

Fatalities: 72

Injuries: More than 210

Description: Two suicide bombers drove one truck and one car loaded with explosives to the Chechen government's headquarters in Grozny and detonated them.

Date: May 12, 2003

Organization(s): Chechnya-based groups

Target: Government building

Settlement: Znamenskoye, Nadterechnyi district, Chechnya

Tactic: Bombing

Fatalities: 60

Injuries: More than 200

Description: Two suicide bombers drove a Kamaz truck loaded with explosives to the local office of the Federal Security Service and detonated a bomb.

Date: May 14, 2003

Organization(s): Chechnya-based groups

Target: Government official

Settlement: Between Belorechye and Iliskhan-Yurt, Gudermes district, Chechnya

Tactic: Bombing

Fatalities: 18

Injuries: 72

Description: A female suicide bomber infiltrated a crowd of Muslim worshippers in an effort to assassinate the president of Chechnya, Akhmad Kadyrov, but was stopped by his security detail and blew herself up.

Date: June 20, 2003

Organization(s): Unknown

Target: Government building

Settlement: Grozny, Chechnya

Tactic: Bombing

Fatalities: 0

Injuries: 38

Description: Two suicide bombers drove a Kamaz truck loaded with explosives to the office of the Organized Crime Department of the Chechen Interior Ministry in the Strapromyslovsky district of Grozny.

Date: May 9, 2004

Organization(s): Basayev's Group

Target: Government official

Settlement: Grozny, Chechnya

Tactic: Bombing

Fatalities: 7

Injuries: 56

Description: A powerful bomb detonated at the Grozny stadium during a May 9 Victory Day parade killed Chechnya's president Akhmad Kadyrov and six others, including senior officials.

Chronology of major terrorist attacks in Dagestan in 2000–2004

Date: September 23, 2001

Organization(s): Unknown

Target: Unknown

City: Makhachkala

Tactic: Bombing

Weapon: Explosives

Fatalities: 2

Injuries: 15

Description: A car bomb killed two in Dagestan.

Date: January 19, 2002

Organization(s): Unknown

Target: Government

City: Makhachkala

Tactic: Bombing

Weapon: Explosives

Fatalities: 7

Injuries: 11

Description: A bomb went off on a city street as a truck with Russian servicemen in it passed by.

Date: May 9, 2002

Organization(s): Unknown

Target: Citizens and private property; government

City: Kaspiisk

Tactic: Bombing

Weapon: Explosives

Fatalities: 43

Injuries: Unknown

Description: A bomb went off on a city street as military parade marched by, killing servicemen and civilians.

Date: September 27, 2002

Organization(s): Unknown

Target: Police

City: Makhachkala

Tactic: Assassination

Weapon: Firearms

Fatalities: 3

Injuries: 0

Description: Unknown masked gunmen opened fire at a car carrying police colonel Akhberdilav Akilov, head of the Directorate for the Campaign against Terrorism and Extremism in Dagestan's Interior Ministry. Both he and his driver were killed, as well as a woman passenger on a passing shuttle bus.

Date: August 27, 2003

Organization(s): Unknown

Target: Government

City: Makhachkala

Tactic: Bombing

Weapon: Explosives

Fatalities: 1

Injuries: 1

Description: Magomedsalikh Gusayev, Dagestan's minister for ethnic policy, information, and public relations, was killed in Makhachkala when a bomb planted on the roof of his car exploded as he drove to work.

Date: September 3, 2003

Organization(s): Unknown

Target: Police

City: Makhachkala
Tactic: Assassination
Weapon: Firearms
Fatalities: 2
Injuries: 2

Description: Unidentified attackers gunned down Salikh Shamkhalov, a police officer who worked for a high-ranking member of the extremism and terrorism control department, and his wife as they returned home in Makhachkala.

Date: January 29, 2004
Organization(s): Unknown
Target: Police
City: Makhachkala
Tactic: Armed attack
Weapon: Firearms
Fatalities: 2
Injuries: 1

Description: The police department head of Makhachkala was killed when his vehicle came under fire. The driver of the vehicle, also a policeman, was killed in the attack and a woman passerby was injured.

Date: June 24, 2004
Organization(s): Unknown
Target: Government
City: Makhachkala
Tactic: Assassination
Weapon: Firearms
Fatalities: 1
Injuries: 0

Description: Kamil Etibekov, FSB department chief for Dagestan, was killed near the entrance to his house. He was a terrorism investigator and officials believe that his death was linked to his professional activities.

Date: August 23, 2004
Organization(s): Unknown
Target: Police
City: Makhachkala
Tactic: Bombing
Weapon: Remote-controlled explosive
Fatalities: 0
Injuries: 7

Description: A special operations police unit van hit a radio-controlled mine in Dagestan, injuring seven police officers.

Chronology of major terrorist attacks in Moscow in 2000–2004

Date: October 19, 2002
Organization(s): Riyad us-Saliheyh Martyrs' Brigade
Target: Restaurant
Tactic: Bombing

Fatalities: 1

Injuries: 7

Description: A car bomb exploded in Moscow outside a McDonald's, injuring at least seven people and killing one. Four members of this terrorist organization were charged and sentenced to fifteen to twenty-two years in prison.

Date: October 19, 2002

Organization(s): Riyad us-Saliheyn Martyrs' Brigade

Target: Theater

Tactic: Hostage-taking

Fatalities: Approximately 130

Injuries: Approximately 700

Description: More than forty terrorists from the Riyad us-Saliheyn Martyrs' Brigade, led by Chechen warlord Movsar Barayev, seized a musical theater located in southeast Moscow on October 23, 2002, taking more than 700 people hostage and demanding the withdrawal of Russian troops from Chechnya. The Kremlin refused to meet this demand, even though the terrorists threatened to start killing the hostages. Russian commandoes stormed the theater on October 26, killing all the terrorists. At least 123 hostages died as a result of inhaling gas pumped into the building by Russian special forces to knock out the hostage-takers.

Date: July 5, 2003

Organization(s): Riyad us-Saliheyn Martyrs' Brigade

Target: Music festival

Tactic: Bombing

Weapon: Suicide explosive

Fatalities: 14 (including two terrorists)

Injuries: 50

Description: Two Chechen women blew themselves up at the Krylya rock festival at the Tushino airfield killing fourteen, including themselves, and wounding fifty. The women had intended to detonate the explosives belts concealed under their clothes inside the security perimeter, but blew themselves up outside after one of them realized they might not be able to pass through a metal detector at the entrance.

Date: July 10, 2003

Organization(s): Unidentified group of Chechen militants (possibly, Riyad us-Saliheyn Martyrs' Brigade)

Target: Popular shopping and dining area

Tactic: Bombing

Fatalities: 1

Injuries: 0

Description: A female suicide bomber tried but failed to detonate a belt of explosives in downtown Moscow on July 10, 2003. A sapper died when trying to defuse the bomb. The woman, a native of Chechnya, confessed to having been sent on orders of Chechnya-based groups to blow herself up, was tried in court and convicted of terrorism.

Date: December 9, 2003

Organization(s): Unidentified group of Chechen militants

Target: Parliament

Tactic: Bombing

Fatalities: 6

Injuries: 14

Description: A female native of Chechnya blew herself up in front of a downtown hotel near the Russian parliament after reportedly inquiring about the location of its lower chamber, the State Duma.

Date: February 6, 2004

Organization(s): Achemez Gochiyaev's group

Target: Subway

Tactic: Bombing

Fatalities: 41

Injuries: More than 100

Description: A native of Karachayevo-Cherkessia blew himself up inside a Moscow subway train. City prosecutors alleged that the young man was sent to Moscow by Achemez Gochiyaev, an ex-leader of Karachai Wahhabists in the republic of Karachayevo-Cherkessia who is wanted by Russian law enforcement for allegedly masterminding apartment bombings in Moscow in 1999.

Date: August 24, 2004

Organization(s): Riyad us-Saliheyn Martyrs' Brigade

Target: Bus stop

Tactic: Bombing

Fatalities: 0

Injuries: 4

Description: A bus stop was blown up on Kashirskoye Highway, injuring four people. The attack occurred the same day that two Russian airliners were blown up by suicide bombers from the Riyad us-Saliheyn Martyrs' Brigade.

Date: August 24, 2004

Organization(s): Riyad us-Saliheyn Martyrs' Brigade

Target: Airliner

Tactic: Bombing

Fatalities: 44

Injuries: 0

Description: A female member of the Riyad us-Saliheyn Martyrs' Brigade managed to sneak past security at Moscow's Domodedovo airport, board an airliner, and blow it up in the sky over the Tula region.

Date: August 24, 2004

Organization(s): Riyad us-Saliheyn Martyrs' Brigade

Target: Airliner

Tactic: Bombing

Fatalities: 46

Injuries: 0

Description: A female member of the Riyad us-Saliheyn Martyrs' Brigade managed to sneak past security at Moscow's Domodedovo airport, board a plane and blow it up in the sky over the Rostov region.

Date: August 29, 2004

Organization(s): Riyad us-Saliheyn Martyrs' Brigade

Target: Subway station

Tactic: Bombing

Fatalities: 10

Injuries: Approximately 50

Description: A female suicide bomber blew herself up outside the Rizhskaya metro station in northern Moscow, killing at least ten people and injuring more than fifty.

NOTES

1. While acknowledging that there is a broad spectrum of systemic threats to Russia's security, this article focuses on those posed by extremist and terrorist groups. These groups pose the most serious threat to Russia's national security, their actions are a pretext for the suppression of liberties in Russia. The article highlights trade-offs between liberties and security in four parts of Russia that are the most representative for this purpose; however, due to a lack of empirical evidence, this article is not a comprehensive nationwide study and should not be considered as such. There are simply not enough data in the public domain for a quantitative analysis, even by methods of basic multiple regression. There are myriad quantitative data on Russia as a country, making it possible to identify variables for a multiple regression comparing Russia to other nations (by using, for example, independent indexes of freedoms. However, such indexes are not available for individual regions of Russia).

2. While noting that resentment over suppression of freedoms and rights are among the root causes of terrorism, poverty, and slow economic growth make it easier to recruit terrorists, as argued in a recent authoritative and extensive study of factors that explain which countries run the risk of sinking into civil war. See James D. Fearon and David D. Laitin, "Ethnicity, Insurgency, and Civil War," *American Political Science Review* 97, no. 1 (Spring 2003): 75–90. In fact, this article argues that political resentment is not among the factors that significantly increase the threat of a civil war. The focus is on the trade-offs between liberties and security and, thus, the authors do not dwell on economic factors. This article mentions the latter in passing, noting the stratification of society using the relative share of small businesses as a watch point—an indirect measurement of the overall level of liberties and freedoms—since, as a rule, the more liberal the regime, the easier it is to open a small business.

3. Russia consists of eighty-nine constituent territories, officially referred to as subjects of the Russian Federation. These territories differ in administrative status, including ethnic republics, regions, autonomous districts, and the country's two biggest cities, Moscow and St. Petersburg. The generic term commonly used to refer to all of the territories is regions.

4. The years 2005 and 2006 have also seen important developments in Russia's war on terror, mostly in the legislative domain.

5. For more information, see the correlation of transience and support for terrorists in the Moscow and St. Petersburg case studies.

6. These watch points are representative for the evaluation of trade-offs between liberties and security, but by no means should they be considered a full, comprehensive set of criteria. As mentioned earlier, the limited number of watch points is a result of the lack of publicly available empirical data necessary for a quantitative analysis.

7. Simon Saradzhyan, "Defense Minister Back's Putin's Plans," *Moscow Times*, October 27, 2004.

8. Dagestan, Chechnya, Ingushetia, Kabardino-Balkariya, and Karachayevo-Cherkessiya comprise the North Caucasus.

9. One such suspected terrorist is Maksim Panaryin, who was detained on May 8, 2005, by police in the southern Russian city of Voronezh. He was allegedly communicating with members of the so-called Karachai Jamaat, a militant network composed largely of ethnic Karachais, via the Internet. Officials suspect Panaryin fought against Russian troops on the side of Chechen rebels in 1999–2002 and then left to settle in Voronezh in 2003. That year he helped organize three bombings in the city on orders from a senior operative of this jamaat, Nikolai Kipkeev, who died guiding a suicide bomber at Moscow's Rizhskaya subway station in August 2004. Panaryin confessed to the bombings and membership in the jamaat, and was awaiting trial as of June 2005. Sergei Egorov, *Gazeta.Ru* "U Karachayevskikh Terroristov Poyavilos Obshee Delo," June 25, 2005. http://www.gazeta.ru/2005/06/25/oa_161871.shtml (accessed August 4, 2006).

10. The terrorists in Beslan included not only Ingush and Chechens, but also one ethnic Ossetian, Vladimir (a.k.a. Abdulla) Khodov, who died in the fighting. Victims later described him as one of the most aggressive terrorists, even though he was of the same ethnic background.

11. *Nezavisimaya Gazeta*, "Shoigu Proindeksiroval Terakty," December 15, 2004.

12. In June 2004, some 300 Ingush and Chechen insurgents simultaneously attacked eleven military and police facilities in Ingushetia, killing eighty-eight people, including sixty law-enforcement and military officers. Two months later, Chechen rebels attacked several police facilities in Grozny, Chechnya's capital, killing more than eighty policemen and soldiers. These raids demonstrated the terrorists' capability to plan and implement multipronged operations requiring a high degree of planning and discipline.

13. The Law on Countering Terrorism, which substantially increased law enforcement, security (particularly the FSB) and military agencies' powers, was signed by Putin in March 2006. Russian parliamentarians were considering new laws aimed at further restricting media coverage during terrorist crises as of the first part of 2006.

14. Such a demonstrative reaction helps create the impression that authorities are doing their best to protect the public from the menace of terrorism, especially when covered favorably by state-owned television channels, as is the case in Russia.

15. President Vladimir Putin's Address on September 4, 2004. http://kremlin.ru/eng/speeches/2004/09/04/1958_type8291_2_76332.shtml (accessed on August 4, 2006). NTV did not broadcast from the theater. NTV broadcast images of commandos taking positions outside the Dubrovka theater seconds before they initiated the raid.

16. The convention emphasized that during terrorist acts or antiterrorist operations, rescue efforts, and "the human right to life take priority over all other rights and freedoms." The convention said that media outlets have the "right and duty of contributing to the open discussion of the problem of terrorism" and that the threat of terrorism must not be used to restrict media freedoms, but it subjects signatories to limitations from the government and sets guidelines on issues ranging from interviews with terrorists to the tone of coverage. The Associated Press, "Media Firms Sign a Terrorism Pact," April 10, 2003, <http://www.medialaw.ru/publications/zip/105/6.htm> (accessed on August 3, 2006).

17. Law on Countering Extremist Activity, as published in the government-run *Rossiyskaya Gazeta*, July 30, 2002. Russian language text is available at http://www.rg.ru/official/doc/federal_zak/114-fz.shtml (accessed on August 4, 2006).

18. The authors' April 29, 2005, interview with Lev Levinson, a State Duma legal expert and an analyst with the Moscow-based Institute for Human Rights.

19. In March 2005, a letter signed reportedly by 5,000 Russian public figures was submitted to the office of the General Prosecutor, demanding an investigation and the eventual closing of Jewish organizations in Russia. The authors of the letter referred to the Law on Countering Extremist Activities, saying that Judaism proclaims the superiority of Jews over other religions.

20. Ibid.

21. Ibid.

22. For example, a FSB senior officer FSB recommended to the Moscow-based publishing house Ultra.Kultura to stop distributing four book titles, claiming that they glorify terrorism. The titles included a seminal study, *Inside Terrorism*, by Bruce Hoffman, and a study of Chechen female suicide bombers, *Brides of Allah*, by Moscow journalist Yulia Yuzik. See "Gosnarkontrol Razoryaet Izdatelstva," *Kommersant*, March 16, 2004. In another instance, police in the city of Yekaterinburg attempted to ban the sale of *Why Allah Dislikes America*, a Russian translation of a collection of essays and interviews about Islamic fundamentalism edited by Adam Parfrey, "Iz Prodazhi Izyali 7 Knig, Otpechatannyh v Tipografii Uralsky Rabochy," *Novy Region*, March 16, 2004.

23. According to personal accounts of several individuals convicted in Dagestan over the past two years for participation in terrorist groups and/or engaging in terrorist activities, investigators used the first weeks of detention to force the suspects to testify against themselves using torture. This was acknowledged by Dagestan's Minister of Information, Zagir Arukhev, in an interview with the authors on October 10, 2004.

24. If passed into law, the bill will grant the security services the right to monitor private communications, ban demonstrations, and prevent the movement of people and vehicles in zones where a terrorist alert is declared. Under the bill, the power to declare a state of emergency would reside with the head of the counterterrorism operations headquarters, a ranking FSB officer appointed by the prime minister. In the final version of the law, signed by Putin in March 2006, the notion of a state of emergency was dropped. Heads of the regional FSB offices would become heads of the antiterrorism operational headquarters during terrorist attacks and were granted extraordinary authority over all branches of power for the duration of a terrorist crisis. Under the existing law, a state of emergency can be called for the duration of a counterterrorism operation. The bill does not specify how often a state of terrorist danger can be declared. The bill also sets out legal procedures allowing the military to participate in counterterrorism operations—including, for the first time, those beyond Russia's borders—under the overall direction of the FSB, the country's lead counterterrorism agency. The bill would oblige journalists to cover terrorist attacks only within limits set by the FSB's counterterrorism operations headquarters. It was not clear from the bill whether all media outlets covering a terrorist attack, including those not reporting from the scene, would need to obtain FSB permission, or whether the headquarters would have the authority to block media coverage.

25. The introduction and impact of the law designating Chechnya a zone of counterterrorism operations is described in the Chechnya case study. The impact of a local law on countering Wahhabism and political extremism, passed by the Dagestani parliament in 1999, is described in the Dagestan case study.

26. In Kabardino-Balkariya, President Arsen Kanokov, appointed in 2005, fired Interior Minister Khachim Shogenov in early 2006 and demanded that local law enforcement stop brutal abuses against local citizens.

27. The state Duma voted on April 19, 2006, to pass a series of amendments that would reintroduce confiscation and allow the FSB to eavesdrop on phone calls, and search apartments without a court warrant, among other things in the first reading. The legislation—twelve amendments to federal laws—would reintroduce the confiscation of property from anyone convicted of not just terrorism, but of drug dealing and prostitution. It would also allow the FSB to tap phone lines and search apartments for two days without obtaining a court warrant during counterterrorism operations. The FSB would also be allowed to enter apartments and jam telecommunications without a court warrant under the same circumstances. The amendments, which the Duma is set to consider by mid-June in the second and third readings, could lead to abuse and corruption by law-enforcement officials, according to independent Duma members who voted against the bill. See Anatoly Medetsky, Simon Saradzhyan, and Oksana Yablokova, "Confiscations Could Be Commonplace," *Moscow Times*, April 21, 2006.

28. Nikolai Petrov, a scholar with the Carnegie Moscow Center, described this insensitivity in his May 2005 peer review of this article as the "colossal inflation of the value of life."

29. Yuri Levada Analytical Center, a respected Russian polling agency, surveyed 1,200 individuals in different Russian regions September 10–13, 2004. The margin of error was 3.2 percent.

30. VTsIOM surveyed 1,541 individuals in different Russian regions September 18–19, 2004. The margin of error was 3.4 percent.

31. Islamic radicals are commonly, but incorrectly, referred to in Russia as Wahhabists. Not all those that Russian officials and media brand as Wahhabists are followers of the cleric Al Wahhab and his teachings, and not all of those who are Wahhabists are preaching or practicing violence. It would be more appropriate to describe Islamic fighters, who seek to establish an Islamic state that would include all Muslim republics of the North Caucasus, as militant Salafites. Salafites are Islamists who stand for Salafiya, which means pure Islam. Many ascribing to Salafitism support radical actions in search of pure Islam. Again, we should note that not all Salafites in the North Caucasus are militant and ready to use force to establish an Islamic state. For instance, only 1,000 out of 21,000 Salafites in Dagestan could be described as militant as of 2000. See Alexei Malashenko, *Islamic Factor in the Northern Caucasus* (Moscow: Gendalf, 2001).

Due to all of the above factors, we will use as the term militant Salafites or put the word Wahhabi inside quotation marks to stress that it is the term used by Russian officials and media.

32. *Nezavisimaya Gazeta*, "Nikto Ne Khotel Umirat," August 28, 2002.

33. Defense Minister Sergei Ivanov's address at a meeting of senior commanders on November 17, 2004, available at http://www.mil.ru/releases/2004/11/171230_8578.shtml.

34. See the appendix.

35. After the March 2005 killing of separatist leader Aslan Maskhadov, credit for which was claimed by the FSB, it has become increasingly difficult to discern a secular organizational component of the insurgency, which Maskhadov had previously embodied. The most influential Chechen warlords and the formal head of the self-proclaimed independent Chechen state, Abdul Khalim Saidullaev, frame their opposition to Russia predominantly in terms of a clash of civilizations rather than a neocolonial war.

36. In June 2004, Chechnya's then-interior minister, Alu Alkhanov, put the number of insurgents at 500. See Interfax, "Chislennost Boyevikov Ne Prevyshaet 500," June 18, 2004.

37. Then commander of federal forces in Chechnya, Colonel General Valery Baranov, estimated in February 2004 that the number of rebels does not exceed 1,200. *Strana.ru*, "V Chechne Ostalos Okolo 1,500 Boyevikov," January 14, 2004, <http://kavkaz.stana.ru/news/208092.html> (accessed on August 6, 2006).

38. Maskhadov, the popularly elected president of the Chechen republic of Ichkeria, was killed during a raid by Russian commandos in the Chechen village of Tolstoy-Yurt in March 2005. The FSB assumed responsibility for the killing.

39. One piece of evidence indicating his significance is that in the summer of 2005 Umarov became vice president under Maskhadov's designated successor, the president of the self-proclaimed Chechen republic of Ichkeria, Abdul Khalim Saidullaev.

40. "Voyennaya Gruppirovka v Chechne Usilivayetsya," *Nezavisimaya Gazeta*, March 23, 2005.

41. *Strana.ru*, "Dvukhglavaya Respublika," November 11, 2004, <http://www.strana.ru/stories/02/02/15/2504/233938.html> (last accessed on August 6, 2006).

42. The official count of Chechnya's population according to a 2002 census was slightly over 1 million residents. However, independent experts, such as Chechen human rights activist Ruslan Badalov, argue that this number had been inflated by Chechnya's leadership to procure additional financing from Moscow.

43. Chechnya's parliament unanimously confirmed Ramzan Kadyrov, a strongman accused of mass human rights abuses, as prime minister on March 3, 2006. "With Kremlin support, Kadyrov can rule Chechnya any way he pleases, especially since [Chechen President Alu] Alkhanov, who is responsible mainly for legislative initiatives and external relations, does not have the political will to oppose Kadyrov," said global security con-

sulting firm Stratfor. See Reuters, "Kadyrov Takes Post as Prime Minister," March 6, 2006.

In October 2006, Kadyrov will turn thirty, the minimum age set by the Chechen constitution to be president. Expectations are high that President Vladimir Putin—who often displays a personal sympathy toward Kadyrov in public—will nominate him as president then.

44. The paper is available at the Moscow Helsinki Group's website at <http://www.mhg.ru/publications/18259E3> (accessed March 29, 2005).

45. The study is available at the HRW's website at <http://hrw.org/backgrounder/eca/chechnya0305> (accessed April 3, 2005).

46. Nabi Abdullaev, "Chechen Abductions Ignored, Activists Say," *Moscow Times*, February 17, 2005.

47. Kim Murphy, "Russian Officers Are Acquitted in Civilians' Deaths," *Los Angeles Times*, April 30, 2004. The four servicemen were being tried again as of February 2005 after a higher court overturned the Rostov-on-Don court's verdict.

48. In August 2005 the Supreme Court overturned the acquittal of these officers and ordered a retrial. And in April 2006 the Constitutional Court ruled that grave crimes committed by the military in Chechnya would be tried by military tribunals until the use of juries is introduced in the southern republic. It was Chechnya's president, Alu Alkhanov, who filed a motion to have all servicemen who have committed crimes in Chechnya to be tried there. Alkhanov also complained that military officers could be tried by a jury, but ordinary Chechens could not. He also suggested that crimes committed in Chechnya should be heard by Chechen juries. Trial by jury is to be available in Chechnya as of January 1, 2006. The complaint was filed after juries in the nearby Rostov region twice acquitted Ulman and his three fellow servicemen. See *Moscow Times*, "Army Tribunals to Hear Chechen Cases," April 7, 2006.

49. Andrei Soldatov and Irina Borogan, "Tyazhely Feis i Drugie," *Moskovskie Novosti*, September 17, 2004.

50. The authors' interview with Timur Aliyev, editor of *Chechen Society*, February 22, 2004.

51. Ibid.

52. *Chechen Society* stopped distributing a print version in 2004. It began distributing an electronic form as of February 2005.

53. Written statement by the Moscow branch of the Federal Registration Service of the Justice Ministry to the authors of this article, April 20, 2005.

54. The August 2004 presidential elections, won by the Kremlin-backed candidate, Alu Alkhanov, featured a number of flagrant violations: an observer at the polling station in the village of Zakan-Yurt was forced to sign the protocol of the election results at gunpoint; another observer reported that only 350 people had voted at a village polling station where 2,000 voters had been registered, but the final protocol he was forced to sign stated that about 1,500 people voted. Timur Aliyev, "Official Results Give Alkhanov 74%," *Moscow Times*, August 31, 2004. For a broad and comprehensive study of vote-rigging in Chechnya during the 2003 and 2004 elections, see Vladimir Pribylovsky "Upravlyayemye Vyборы: Degradatsiya Vyborov pri Putine," in *Rossiia Putina, Istoriya Bolezni* (Panorama Center: Moscow, 2004).

55. The November 27, 2005, election saw the pro-Kremlin United Russia party win the largest number of seats. This party won more than 61 percent of the vote. The Communist Party was second, with 12 percent, followed by the liberal Union of Right Forces, with nearly 11 percent. In the vote, more than 350 candidates contended for 58 seats in the two-chamber regional parliament. See the Associated Press "United Russia Leads in Chechnya," November 29, 2005. Many observers, however, said the vote was far from free and fair, and analysts say the new legislature will be nothing more than a rubber-stamp body for Chechnya's Kremlin-backed governing elite. Also, see *Moscow Times* "Putin Opens Chechen Assembly," December 13, 2005.

56. Anne Marie Baylouny, "Emotions, Poverty, or Politics? Misconceptions about Islamist Movements," *Connections* 3, no. 3 (September 2004): 69–77. Partnership for

Peace Consortium of Defense Academies and Security Studies Institutes, Garmisch-Partenkirchen, Germany, March 2004.

57. As of November 2004, 1,116 individuals returned to Chechnya and applied for compensation for destroyed housing, but only thirty-two were compensated. *Regnum* "1,116 Vynuzhdennykh Pereselentsy Nuzhdayutsya v Kompensatsii," November 2004. Compensation payments were temporarily suspended in December 2004.

58. *Interfax*, "Uroven Bezrabotitsy v Chechen Dostig 80 Protsentov," April 5, 2005.

59. This is according to a 2004 employment report by the Federal Statistics Service. Official unemployment statistics are generally believed to be lower than the actual rate, as many unemployed people do not register as such, given the meager sum of the compensation to which they are entitled.

60. The Federal Statistics Service has no data on the number of small businesses in Chechnya for 2004.

61. Fearon and Laitin, "Ethnicity, Insurgency, and Civil War."

62. Numerous assassination attempts Makhachkala Mayor Said Amirov demonstrate how diverse the motives of those who order these attacks can be: In one case, a former city council head was convicted for plotting to kill Amirov, whom he viewed as a political rival; in another case, a local businessman was convicted of ordering a hit and admitted in court that his motive was a personal vendetta against Amirov's family; several other attacks were attributed to Dagestani Wahhabists who bear a grudge against Amirov for his efforts to crack down on Islamists in the republic.

63. For example, the murder of the deputy speaker of the Dagestani parliament, Arsen Kammayev, in October 2001, was initially qualified as a terrorist act. Later, the charge was changed to assassination of a state official.

64. Assuming that police and security officials in Dagestan are waging a war against terrorism in the republic, they have a status of combatants, and attacks against them do not qualify as terrorist.

65. Interview with the head of the Caucasus department at the Center for Regional and Civilization Studies of the Russian Academy of Sciences Enver Kisriev, on May 29, 2005.

66. Nabi Abdullaev, "Buinaksk Apartment Bombers Convicted," *Moscow Times*, March 20, 2001.

67. Gusayev's successor, Zagir Arukhov, was killed by a bomb in May 2005. Arukhov's murder is not included in the account because it took place after 2004. Several members of the Islamist militant group Jamaat Shariah were arrested and charged in connection with this murder in 2005-06.

68. Sixty-two police officers were killed by insurgents in Dagestan in 2005.

69. Makasharipov was killed in a police ambush in the regional capital Makhachkala in June 2005.

70. Nabi Abdullaev, "A Murderous Cycle of Revenge in Dagestan," *Moscow Times*, March 15, 2005.

71. In the first half of 2005, seventy attacks were carried out against local and federal officials in Dagestan, while in 2004 this number was thirty, according to the report released by the Moscow Bureau on Human Rights in July 2005. *Interfax*, "Za Polgodu V Dagestane Soversheno 70 Teraktov," July 17, 2005.

72. In comparison, the southern Russian region of Volgograd has fewer than 8,000 policemen and 2.7 million people, or three times less proportionally than in Dagestan.

73. For example, Amirov, the Makhachkala mayor, used high-profile murders as a pretext to demand the ouster of Dagestani Interior Minister Adilgirei Magomedtagirov, who had ordered earlier that Amirov's personal militia be disbanded. Magomedtagirov and Amirov are an Avar and a Dargin, respectively, representing the two biggest ethnic groups in the republic.

74. The Spiritual Board of Dagestani Muslims is a religious NGO that publishes religious literature in Dagestan, arranges traditional yearly pilgrimages to Mecca, and

appoints imams (religious leaders) in about every third Dagestani mosque. Most members of the board are ethnic Avars and are followers of Sheikh Said Apandi Chirkeisky, one of several leading religious authorities in Dagestan. The head of the board, the mufti, who is elected by a council of traditionalist religious scholars and preachers, postures himself as a leader of the republican Muslims. However, even though the traditionalists are split between the followings of several sheikhs, the board's and mufti's authority are limited largely to Makhachkala and the surrounding parishes.

75. Konstantin Kazenin, "Krepok Li Tyl Rossii na Severnom Kavkaze?" *Regnum*, available at <http://www.regnum.ru/allnews/326969.html> (accessed February 2, 2005); Alexander Verkhovsky, "Islamophobia Posle 11 Sentyabrya," in *Rossiia Putina. Pristrastny Vzglyad*, ed. Ekaterina Mikhailovskaya, Vladimir Pribylovsky, and Alexander Verkhovsky. Moscow: Panorama Center, 2003.

76. While these infringements overwhelmingly target groups preaching Islam, representatives of other religions are allowed to exist in a less-constrained environment and some of them even proliferate. For example, according to statistical data provided by the Justice Ministry's Dagestan Branch, fourteen evangelical Protestant organizations, thirteen Orthodox Christian organizations, four Jewish organizations, and one Catholic parish, were registered in Dagestan as of late 2004.

77. Interviews with defense lawyer Sergei Kvasov and convict Gadzhi Abidov in Makhachkala on October 3, 2004.

78. The fact that Magomedali Magomedov served a fourth term as chairman of the State Council (Dagestan's top executive post), despite a requirement in the previous version of the republic's constitution for this post to be rotated among representatives of the fourteen so-called titular ethnic groups, is a testament to the strength of the informal deals between ruling clans.

79. Kisriev interview.

80. With Putin's initiative to scrap popular elections in the Russian regions coming into effect in 2005, the discussion about a need to dismantle Dagestan's legally established clan system of government has lost its acuteness.

81. In early 2006 the Kremlin facilitated passing over of the leadership in the republic to Mukhu Aliyev, a former Communist regional boss and a speaker of the local parliament since 1993. In one of his first public speeches, Aliyev admitted that extremism in Dagestan is, to important extents, conditioned by the brutal abuses and corruption among law enforcement. No personnel decisions by Aliyev had followed in the next two months, however.

82. Written statement by the Moscow branch of the Federal Registration Service of the Justice Ministry to the authors of this article, April 20, 2005.

83. Interview with Rumaniyat Elmurzaeva, chief editor of Dagestan's largest privately owned newspaper, *Novoye Delo*. May 29, 2005.

84. Interviews with Elmurzaeva and Sergei Rasulov, *Gazeta's* Dagestan-based correspondent October 4, 2004.

85. Data collected by the State Statistics Committee in 2004.

86. Federal Statistics Service 2004 employment report. Official unemployment statistics are generally believed to be lower than the actual rate, as many unemployed people do not register, given the meager compensation to which they are entitled.

87. There was another major attack bearing the hallmarks of a terrorist act in this period, but it remains unattributed. Unidentified assailants planted a powerful bomb in the underground passage leading to a Moscow subway station, killing thirteen and injuring more than one hundred in August 2000, but no organization has either assumed responsibility or been accused of complicity in this attack.

88. Some of the Chechen female suicide bombers ahead of the 2002 Moscow theater attack had their statements to this effect taped ahead of the attack. See them at <http://video.kavkazcenter.com/nord-ost/shaheeds.wmv>. Such claims of jihad allow organizers of the terrorist attack to assert that their cause is part of the global jihadist effort,

apparently with the aim to earn sympathy and support from abroad.

89. In one case, police detained Murat Shavayev, an ethnic Balkar who had allowed Nikolai Kipkeyev, an ethnic Karachai and a suspected organizer of the August 2004 suicide bombing outside the Rizhskaya metro station, to stay at his Moscow apartment. Shavayev, then a Justice Ministry official, was detained for several days in December 2004 on suspicion that he had assisted Kipkeyev, but was then released due to a lack of evidence. Shavayev insisted that he had not been aware of Kipkeyev's plans. Balkars, who mostly reside in the North Caucasian republic of Kabardino-Balkariya, and Karachais, who mostly reside in the North Caucasian republic of Karachayevo-Cherkessiya, are closely related.

In October 2004 Russian media reported that Ruslan Elmurzaev, an ethnic Chechen and an employee of a Moscow bank, was one of the main organizers of the Dubrovka theater attack and that it was financed through loans from his bank. Citing sources close to the investigation, *Izvestia* reported that Elmurzaev had provided funds to purchase the Ford Transit and Volkswagen Caravelle minibuses that the attackers drove to the theater, as well as to house them and to buy forged passports for them in preparation for the attack. The Moscow City Prosecutor's Office has identified Elmurzaev, who headed the economic security department of Prima Bank, as one of two organizers of the terrorist attacks in Moscow in the fall of 2002, including the Dubrovka attack on October 23. See Carl Schreck, "Prima Bank Linked to Dubrovka Attack," *Moscow Times*, October 27, 2004.

Another native of Chechnya was caught outside the theater allegedly briefing the gunmen inside on deployments of law-enforcement troops in the area and offering other assistance.

90. Nikolai Kulikov, head of the Moscow city government's department for cooperation with law-enforcement agencies, speaking at a Moscow press conference on May 25, 2005.

91. Vyacheslav Sedov, senior official of the Interior Ministry's organized crime and terrorism department, gave this estimate at a February 2003 press conference. Cited on the Interior Ministry's official Web site <http://www.mil.ru>.

92. Some 58 percent of the respondents of national polls conducted by Yuri Levada Analytical Center, a Moscow-based independent pollster, in 2005 supported the slogan "Russia For Russians." Lev Gudkov, "Xenophobia: Past and Present," *Russia in Global Affairs* 4, no. 1 (2006): 58–66.

93. The NBP, led by writer and political activist Eduard Limonov, has excelled in carrying out symbolic assaults on government officials and facilities, ranging from throwing food at Prime Minister Mikhail Kasyanov in December 2003 to seizing the premises of the Health Ministry in Moscow in August 2004. In Russia, the NBP has staged acts of protest against liberal economic reforms and the deconstruction of the welfare state. The party has also carried out several symbolic attacks in CIS countries, demanding more rights for ethnic Russians living there. Nabi Abdullaev and Simon Saradzhyan "Disrupting Escalation of Terror in Russia to Prevent Catastrophic Attacks," *Connections Quarterly* 4, no. 1 (2005): 111–30.

94. Speaking to reporters in Moscow in January 2005, the commander of the Moscow police force made a point of saying that natives of Chechnya and Ingushetia committed more crimes in the Russian capital in 2004 than residents of other Russian regions. He also noted that natives of Armenia, Azerbaijan, and Georgia committed more crimes than other foreigners in Moscow over the same period. *Komsomolskaya Pravda*, "Chem Bol'she Prazdnikov, Tem Bol'she Kriminala," January 31, 2004.

95. *Public Verdict*, "Tortures, Cruel and Humiliating Treatment by Russian Police: Reasons behind the Illegal Practices," December 11, 2004.

96. On March 29, 2006, a Moscow court convicted two police officers of negligence in the death of detainee Aleksandr Pumane, who was picked up driving a car rigged with explosives in 2004. *Moscow Times*, "2 Police Officers Found Guilty in Car Bomb Suspect's Death," March 30, 2006.

97. *Argumenty i Fakty*, "Natsionalnaya Cherta Stala Natsionalnoi Ugrozoi," September 22, 2004.

98. Yuri Levada Analytical Center, a respected Russian polling agency, surveyed 1,200 individuals in different Russian regions in January 2005. The margin of error in the poll, commissioned by Public Verdict, was 3.2 percent.
99. Written statement by the Moscow branch of the Federal Registration Service of the Justice Ministry to the authors of this article, April 20, 2005.
100. In June 2005, Ren-TV was jointly acquired by the privately owned Severstal metals giant and German television company RTL.
101. Data collected by the State Statistics Committee, later restructured into the Federal Statistics Service, in 2004.
102. "Zanyatost i Demograficheskaya Obstanovka," Moscow City Government Report, December 31, 2004, http://mos.ru/cgi-bin/pbl_web?vid=2&osn_id=0&id_rub=2061&news_unom=36914 (accessed August 6, 2006).
103. Federal Statistics Service 2004 employment report.
104. Alan B. Krueger, David D. Laitin, "Kto Kogo? A Cross-Country Study of the Origins and Targets of Terrorism," *Mimeo*, November 11, 2003.
105. Shamil Beno, a Chechen political activist in Moscow, reported increased harassment of Chechens in Moscow in the wake of the February 2005 subway bombing in the Russian capital. "People are very worried that pogroms, massacres are possible now, much more so than before." Every day since the attack on the subway, Beno has fielded reports of backlash—a friend who witnessed a young Chechen man being beaten on Moscow's outskirts by a group that included two uniformed police officers and his own son stopped hours after the explosion by the police and forced to take off his shoes and stand barefoot in the snow. See Susan Glasser, "Chechens Say Blast Reignites Backlash," *Washington Post*, printed in *Moscow Times*, February 17, 2004. When commenting on the Moscow police force's internal recommendation to limit the number of ID checks in 2003, a U.S. Embassy official familiar with the issue said there have been many complaints about U.S. citizens being stopped by the police for document checks and forced to pay bribes for ostensible offenses. Robin Munro, "Police Told to Ease Up on Checks," *Moscow Times*, March 27, 2003. In February 2004, German Galdetsky, a nineteen-year-old Moscow student, started an investigation into sexual harassment by metro police after watching two officers detain a girl in the Pushkin Square underpass after checking her documents. The girl told him the policemen threatened and harassed her, threatening to kill her if she told anyone. Galdetsky then uncovered similar incidents in several other metro stations and described them in an interview with *Novaya Gazeta*. But before the interview ran on April 8, he was attacked on March 25 by two unknown men, one of whom shot him twice in the head with rubber bullets. His supporters believe the attack, which reportedly left Galdetsky partially paralyzed, was connected to his campaign against police harassment. See Oksana Yablokova, "Mother Looks to Police for Answers," *Moscow Times*, June 24, 2004.
106. These figures were given by the Moscow Bureau for Human Rights on April 17, 2005. St. Petersburg police, for their part, have registered more than 1,200 members of eighteen skinhead groups active in the city. More information is available at www.fontanka.ru/131388 (accessed April 29, 2005). In an interview on May 25, 2005, Vladimir Pribylovsky of the Moscow-based Panorama think tank put the number of skinheads in St. Petersburg as high as 8,000–10,000. This number includes between 1,000 and 2,000 active and motivated followers of the movement, while others sympathize with it and join its actions "opportunistically."
107. "Nationalism and Xenophobia in 2004: Their Displays and the Politics of Countering Them," a report by the Moscow-based SOVA analytical center, available at <http://sova-center.ru/files/xeno/extrem2004%20final.zip> (accessed February 1, 2005). Three people were murdered and forty-two were wounded in xenophobic attacks in the city in 2005, according to the SOVA center.
108. Acknowledged by the president of the Congress of the Vainakh Diaspora in Russia and a leader of St. Petersburg's Chechen diaspora, Deni Teps, in an interview with Radio Liber-

ty, "Kavkaz: Pozitsiya Chechenskoi Diaspory" ["Caucasus: Position of the Chechen Diaspora"], October 21, 1999, available at <http://www.svoboda.org/programs/RTL/index.1299.asp> (accessed February 2, 2005).

109. Natalia Matveyeva, "Wahhabism on the Neva," *Versiya v Pitere*, May 19, 2003.

110. *St. Petersburg Times*, "Court Releases Anti-Putin Protesters," March 2, 2004.

111. In 2006, the NBP staged several high-profile nonviolent escapades in the city, demanding Putin's resignation.

112. RIA Novosti, "Ubiystva Girenko, Tadjikskoi Devochki i Vietnamskogo Studenta Matviyenko Nazvala Banditsko-Huliganskimi, a ne Extremistskimi Proyavleniyami," October 29, 2004.

113. *Interfax*, "Rukovoditel Podrazdeleniya GUV D Peterburga i Oblasti po Pravonarusheniyam Sovershennymi Inostrantsami i v Otnoshenii Nih, Andrei Stanchenko: Prestupleniya Protiv Inostrantsev Ukhudshayut Imidzh Peterburga," February 24, 2004.

114. For creating an extremist organization and inciting ethnic hatred, Bobrov was sentenced to six years in prison in December 2005.

115. Official response to a request submitted by the authors from the Justice Ministry Chief Directorate of the Federal Registration Service for St. Petersburg and Leningrad Region, April 29, 2005.

116. Data collected by the State Statistics Committee in 2004.

117. "Yezhegodnoye Poslanie Gubernatora Sankt-Peterburga V. Matviyenko Gorodskomu Parlamantu," March 30, 2005, http://www.abnews.ru/type_news_full.html?t=9600&data=news (last accessed August 6, 2006).

118. Federal Statistics Service 2004 employment report.

119. It should also be noted that there are cultural and historical differences among the researched regions. Comparing other North Caucasus republics with Chechnya and Dagestan would help advance the argument as residents of these regions have more in common culturally and historically and, thus, impact of social and cultural differences—as contributing factors—on the research and analysis would be minimized.

120. *Schwerpunkte* means "centers of gravity," a military term coined by Prussian strategist Karl von Clausewitz.

Europol and the Policing of International Terrorism: Counter-Terrorism in a Global Perspective

Mathieu Deflem

The European Police Office (Europol) is an international police organization that was formed to promote cooperation among law enforcement agencies in the European Union. Framed within the context of the Treaty of the European Union, Europol's mandate includes all serious forms of international crime, including international terrorism. This paper offers an analysis of the organization of Europol's counter-terrorism operations in the context of the history and dynamics of international police cooperation. More specifically, on the basis of the bureaucratization theory of policing, Europol is reviewed to exemplify the dual forces of political control over the organization via the regulative bodies of the European Union, on the one hand, and the institutional autonomy and professional expertise of participating police agencies, on the other. The outcome of these dual forces can be expected to determine the course and outcome of counter-terrorist policing in the European Union in years to come.

Keywords counter-terrorism; Europol; globalization; international terrorism; policing

Introduction

Since September 11, 2001, the world has undeniably changed, at least with respect to many institutions of societies across the globe as well as the social-scientific study thereof. Although most work on terrorism and terrorism-related issues continues to come from political science and legal scholarship (Deflem,

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2005b), the study of terrorism in sociology, criminology, and criminal justice has clearly gained ground (Black, 2004; Deflem, 2004a; Dugan, LaFree, & Piquero, 2005; Rosenfeld, 2002; Sociological Theory, 2004; Turk, 2004). This renewed attention also includes contributions on the criminal justice and policing dimensions of counter-terrorism, especially from an international and comparative viewpoint (Das & Kratcoski 2003; Deflem, 2004b, 2006; McCulloch 2003; Paye 2004; Wallace & Kreisel 2003). Within this scholarship, the present article offers an analysis of the organization of counter-terrorism by the European Police Office (Europol), the international police organization that was recently set up in the European Union (EU). Europol was originally conceived in the Treaty of the European Union in 1992, and limited operations began in 1994 with an emphasis on drug enforcement that was later extended to cover organized crime. In 1998, the Council of European Union Ministers formally approved an extension of Europol's mandate to include counter-terrorism. Then also agreed upon was the creation of a special Counter-Terrorism Task Force, which eventually was set up shortly after 9/11.

The organization of counter-terrorist policing by Europol represents but one component in a broad and complex global constellation of terrorism-related activities by a plethora of criminal justice and policy agencies at both the national and international level. The results of this inquiry into one international police organization will therefore be restricted because of its thematic focus. However, in order to unravel the patterns and dynamics of the global constellation of counter-terrorism in any meaningful way (Bennett, 2004), studies of concrete institutional responses are in order, especially those that are undertaken at an international level. The dynamics of these developments will have consequences beyond the boundaries of any confined localities.

This paper will unravel the characteristics of Europol's counter-terrorism strategies on the basis of the bureaucratization theory of policing (Deflem, 2002). Europol's mandate is explicitly defined by the European Union, and its operations are overseen by the regulatory bodies of the EU, whereas other international police organizations have been formed outside the context of any (international) political body. The prototypical case is the International Criminal Police Organization, better known as Interpol, which was formed in 1923 by police officials to function independently as a nongovernmental international organization on the basis of an internal set of rules and procedures (Deflem, 2002, pp. 124-152). Yet, despite the fact that Europol has been established within the political and legal structures of the European Union, I will argue that the organization nonetheless displays important features of professional expertise similar to those that characterize other international police organizations.

The analyses in this paper rely on archival sources and interviews with Europol officials (Interviews, Europol headquarters, 2003). The archival sources include official EU policy documents, reports and press releases made available by Europol, and international news reports about Europol's counter-terrorism activities and related EU policies. Official documents and reports were primarily retrieved via the official websites of Europol, the Council of the European

Union, and the civil rights organization Statewatch. News reports were mostly obtained via the online database of LexisNexis. Additional sources were found via online search engines. Semi-structured interviews were conducted with personnel at the Europol headquarters in The Hague, The Netherlands, in the spring of 2003, and at the Europol liaison office in the European Commission in Washington, DC, in the summer of 2003. Reporting these data, no details of the specific interviews and respondents will be identified in order to preserve anonymity. Mention will be made when information was retrieved by interview, but no direct quotes are included.

Counter-Terrorism and International Policing

This analysis relies on a theoretical model of policing that has been developed in research on the historical antecedents of international police cooperation (Deflem, 2002, 2005a) as well as its further development and contemporary conditions (Deflem, 2004b, 2006). Specifically, following Max Weber's (1922) bureaucratization theories, I defend the theoretical viewpoint that the form and dynamics of international police cooperation are shaped by a historical process of bureaucratization that has affected police institutions across the Western industrial world. Three conditions are central to this development: (1) the structural condition of formal bureaucratic autonomy of police institutions; (2) the operational motive among police of a shared conception of crime and crime control; and (3) the collaborative form in which police cooperation takes place (Deflem, 2002, pp. 12-34).

First, in order to accomplish cooperation across national borders, police institutions must have gained a position of relative independence from the dictates of the governments of their respective national states. Such a condition of institutional independence or formal bureaucratic autonomy allows public police institutions, though formally sanctioned by states, to autonomously plan and execute relevant strategies of crime control and order maintenance. Conversely, without a sufficient degree of detachment from the political centers of states, police institutions will not be in a position to engage in international cooperation on a broad multilateral scale beyond more limited cooperation among politically akin states. Early efforts to organize international police cooperation in Europe in the nineteenth century, for instance, were limited in scope and operations because they were politically motivated and planned by autocratic governments (Deflem, 2002, pp. 45-65, 2005a). From these political efforts, however, police gradually developed more autonomously conceived cooperation efforts on the basis of professional expertise. Following Weber's rationalization theory, I maintain that police institutions gained such a position of relative independence because the execution of their duties is guided by formal criteria of efficiency and an impersonal calculation of means, a trend towards instrumental rationalization which Weber equated with modernity itself. The reliance on technologically

sophisticated means of criminal investigation is the most concrete expression of this development among police institutions.

Second, under conditions of formal bureaucratic autonomy, police agencies develop expert systems of knowledge that can be shared among fellow professionals across national boundaries. In the case of international cooperation, such knowledge systems will particularly concern expertise about the course of international crime, including crimes that in their execution traverse the boundaries of national jurisdictions, as well as criminal developments that affect several countries at once, such as the influence of economic modernization on criminal conditions across the world. When such systems of knowledge have developed, police agencies are also bureaucratized in operational respects and can effectively form international cooperation plans on a broad multilateral scale. In the context of counter-terrorism, knowledge systems will be shared across the police of national states when a common understanding has developed about the nature and occurrence of international terrorism. It will be particularly important, then, for police to define and respond to terrorism in a manner that is not limited by the ideologically divisive conceptions of terrorism that often dominate in the world of international politics.

Third, considering the form in which international cooperation will take place, it is noteworthy that international police work will primarily remain oriented at enforcement tasks that have a distinctly local or national significance. The national persistence of international police work does not clash with a police institution's relative autonomy from governmental control, because both the governments and the bureaucracies of states are legitimated in the context of national states. Even despite the proliferation of international police operations and the formation of multilateral cooperation initiatives, including international organizations such as Interpol, a remarkable persistence of nationality can be observed in international police work. This national persistence is manifested in at least three ways (Deflem, 2002, pp. 215-219, 2004b, pp. 87-89). First, police institutions will prefer to engage in unilaterally enacted transnational activities, most typically through a system of international liaisons stationed in foreign countries. Unilaterally planned international operations are not always possible because police agencies may lack necessary personnel and means. The police institutions of more powerful nations are at a considerable advantage in this respect. Second, international cooperation among police will typically take place in a bilateral form, between the police of two nations, and will be maintained only on a temporary basis for a specific inquiry or investigation. Third, and finally, national persistence in international police work is revealed in the fact that multilateral cooperation among police is of a collaborative nature that does not involve the formation of a supranational police force. The idea of a supranational police force clashes with conceptions of both state sovereignty and police autonomy, whereas a collaborative network among police of different nations, for instance such as currently exists among the 184 member agencies of Interpol, can bring about the advantages of international cooperation. Collaboration

among police of different nations can be formalized by means of regular meetings, shared communication networks, and other institutions of cooperation, such as a central headquarters through which information can be routed. The police agencies of national states are thereby affirmed as the partners of cooperation.

In the light of the history of international police cooperation, Europol is a remarkable organization, even on formal grounds alone. Unlike other international police organizations, Europol was not formed from the bottom-up by police professionals but was the result of a top-down decision by the political and legislative bodies of the European Union. The activities of Europol are therefore more distinctly legally framed and bound to certain well-defined areas of investigation. Europol's operations are also supervised by the political representatives of the EU, but as I will seek to substantiate in this paper, Europol is nonetheless characterized by a degree of autonomy to determine the specific means and objectives of its policing and counter-terrorist programs. Primarily geared at an efficient process of information sharing among police, Europol conceives of its counter-terrorist mission on the basis of the professional standards of policing that have developed among the participating agencies.

Sharing the collaborative structure of other international police organizations, also, Europol is not a supranational police force but an international cooperative network that coordinates the activities of national police institutions in the various EU member states via a central headquarters. Conforming to this collaborative structure, there will be a persistence of national and, more broadly, regional interests revealed in the organization's police activities. This persistence of nationality and regionalism implies that police and counter-terrorism objectives will harmonize with distinctly European concerns over terrorism and, furthermore, that there will exist national variations in counter-terrorism across the police units of the EU nations participating in Europol. Before I examine these propositions in the context of Europol's counter-terrorism activities, it will be useful first to describe briefly the structure and activities of Europol and the history of counter-terrorism policies in Europe.

Policing Terrorism in Europe: A Brief History

European efforts to control terrorism have a relatively long history (Monaco, 1995; Peek, 1994; Rauchs & Koenig, 2001; Richardot, 2002). Besides the historical antecedents of political policing from the nineteenth century onwards (Deflem, 2005a), the modern era of European counter-terrorism can be located in the 1970s. The Terrorism, Radicalism, Extremism, and International Violence group, or TREVI group, was formed in 1975 by European police officials, who initially convened on the basis of a Dutch initiative that year, to exchange information and provide mutual assistance on terrorism and related international crimes (Peek, 1994). The cooperation activities of the TREVI group were subsequently formally approved

by the Ministers of Justice and Home Affairs of the then European Economic Community (EEC).

Beyond TREVI, unified Europe created additional cooperative arrangements to combat terrorism, such as the Police Working Group on Terrorism and the Counter Terrorist Group. The Police Working Group on Terrorism was first set up in 1979, when the Netherlands, the United Kingdom, Germany, and Belgium formed the group following the assassination of the British ambassador to Ireland in 1976 (Swallow, 2004). Counter-terrorism units of all other EEC states, the Scandinavian countries, and Finland soon joined the Group, whereupon it was formally agreed to cooperate to combat international crime, including terrorism, in the 1986 "Political Declaration by the Governments of the Member States on the Free Movement of Persons" (Benyon, 1997). The Counter Terrorist Group (CTG) is an initiative of the so-called "Club of Berne," an informal gathering of the heads of the security and intelligence services of various EU states as well as Norway and Switzerland. Set up shortly after the events of September 11, the CTG provides for cooperation in terrorism matters on the basis of an extra-legal memorandum of understanding. Focusing specifically on Islamic extremist terrorism, the Group meets regularly to facilitate operational cooperation among the EU's police and intelligence agencies.

In 1993, the TREVI Group and other European institutions dealing with judicial, customs, and immigration issues were brought together in one new structure under Title VI of the Treaty of European Union. Title VI concerned all the compensatory measures that would have to be taken once the removal of border controls between the member states of the EU had been accomplished (Benyon, 1997). In 1997, a counter-terrorism preparatory group was created to formulate Europol's role in matters of counter-terrorism (Rauchs & Koenig, 2001). Subsequently, the EU Council of Ministers signed the Amsterdam Treaty that approved an extension of Europol's mandate to specifically include counter-terrorism.

The European Police Office: An Overview

The establishment of Europol was first agreed upon on February 7, 1992 in the Treaty on European Union, also called the Maastricht Treaty, named after the town in The Netherlands where the treaty was signed (Europol website; Lavranos, 2003; Marotta, 1999; Occhipinti, 2003; Winer, 2004). Article K.3 of the Treaty concerned the "Establishment of a European Police Office," specifying the new body's governance structure and its function to facilitate cooperation among the police of the EU member states. On January 3, 1994, Europol started limited operations in The Hague, The Netherlands, in the form of the Europol Drugs Unit that was specifically centered on the policing of international drugs crimes. Progressively, other areas of international criminality were added. On July 18, 1995, a Europol Convention was formally drawn up in Brussels, and on October 1, 1998, the Convention came into force when it had been ratified by

all member states (Europol Convention, 1995). Europol thereupon commenced its full range of activities on July 1, 1999.

Europol's Mandate

Based on the provisions of the Europol Convention, the objectives of Europol are to improve the effectiveness of and cooperation among the police authorities of the EU member states in order to prevent and combat serious international organized crime. Europol's specific areas of criminal investigation include the illicit trafficking in drugs, vehicles, and human beings, including child pornography; forgery of money; money-laundering; and terrorism. Priority is given to crimes against persons, financial crimes, and cyber crimes, when an organized criminal structure is involved and when the criminal activity involves two or more member states of the EU. As of January 1, 2002, the mandate of Europol has been expanded to deal with "all serious forms of international crime," such as organized robbery, swindling and fraud, computer crime, corruption, environmental crime, and other crimes specified in the Europol Convention's Annex (Europol Convention, 1995).

Similar to the structure of other international police organizations, Europol is not an executive police force with autonomous investigative powers. Instead, Europol's activities are oriented at facilitating communications among and supporting selected activities of the police organizations in the participating states. Formally, Europol's functions include: (a) the facilitation of information exchange among the so-called Europol Liaison Officers, who are seconded to the Europol headquarters in The Hague by the member states to act as representatives of their national police; (b) the supply of operational analysis in support of relevant police operations conducted by the member states; (c) the drawing up of strategic reports, such as threat assessments, and crime analyses on the basis of information supplied by police of the member states or generated at Europol headquarters; and (d) the offering of technical support for police investigations conducted in the EU member states. Each member state of the EU must designate a particular agency to act as the Europol National Unit or contact point for Europol communications, but the specific organization of the National Units is determined by each member state.

Among its most important instruments, Europol manages the Europol Computer System. This system was set up in accordance with the Europol Convention's specification that Europol would maintain a computerized system for the analysis of data within a framework that also included protections in terms of human rights and a proper supervision of those data. The collection and distribution of data on people's behavior and movements has been a long-standing concern in Europe ever since the development of the so-called Schengen Information System, which had been in operation since 1995 and was later brought under control of the EU (Winer, 2004). Though still treated with suspicion among privacy advocates, the Europol Computer System is presently supplemented by two additional databases:

the EU Customs Information System which provides customs agencies the ability to exchange information on smuggling, and the FIDE (an acronym for "Fichier d'identification des dossiers d'enquêtes douanières," Identification File of Customs Investigations) which provides information on subjects involved in a criminal investigation.

Organization and Control

Currently, Europol ensures cooperation among police of all 25 EU member states. Since Estonia joined Europol on July 1, 2005, all 10 states that had joined the EU in May 2004 also formally participated in Europol. The slight delay in the newest EU member states receiving Europol membership was due to the fact that a new member state must first adopt the Europol Convention and subsequently send notification to the EU of its intention to join Europol, 3 months after which membership is granted. Each member state sets up a Europol National Unit and second officers to the Europol headquarters in The Hague. Presently, Europol's headquarters are staffed by 494 personnel from the various member states. Of these, 82 are Europol Liaison Officers from a variety of member states' police and security agencies, including national police, customs, and immigration services.

Europol is governed by a Directorate, consisting of a Director and three Deputy Directors. The EU Council of Ministers for Justice and Home Affairs appoints the Director for a 5-year period, renewable once for 4 years, and the Deputy Directors for a once renewable 4-year period. The Council also adopts the Europol budget and acts as a control and regulatory body over Europol by each year forwarding a report to the European Parliament to document on the work of Europol. The European Parliament must also be consulted if provisions of the Europol Convention or any other Europol regulations are to be amended.

Supervision of Europol's day-to-day operations is undertaken by an internal Europol Management Board, consisting of one representative of each member state, which meets at least twice a year to discuss a range of issues pertaining to Europol's activities and adopt reports on Europol's activities and future direction. These reports are submitted to the Council of Ministers of Justice and Home Affairs for final approval. Finally, Europol is also guided by a Joint Supervisory Body that is composed of appointed representatives of the national supervisory bodies in the member states. The task of the Joint Supervisory Board is to ensure that the rights of the individual are not violated by the handling of data that are managed through the Europol channels.

Europol and Counter-Terrorism

Although terrorism was not formally added to Europol's mandate until 1998, terrorism was among the international criminal problems that motivated the

creation of the police organization. The Europol Convention of 1995 already mentioned "the urgent problems arising from terrorism, unlawful drug trafficking and other serious forms of international crime" as justifying the need for enhanced police cooperation by means of information exchange between Europol and the member states (Europol Convention, 1995). Since the formation of Europol, terrorism has clearly gained in importance as one of the organization's mandates.

The Centrality of 9/11

Although Europe has had considerable experience with terrorism since the 1970s, the events of 9/11 have served as an important catalyst in the development of new terrorism legislation in the EU (den Boer, 2003; Peers, 2003; Scheppele, 2004) and a prioritization of counter-terrorism among Europe's police organizations, including Europol (Anderson, 2002; den Boer & Monar, 2002; Fijnaut, 2004; Lavranos, 2003; Monar, 2002; Wouters, 2003). Immediately following the attacks of 9/11, a Europol Operational Centre was created to provide a 24-hour service for the exchange of information. On September 20, 2001, the Council of the Ministers of Justice and Home Affairs adopted several measures to combat terrorism on the basis of proposals by Europol and the Council General-Secretariat (Council of the European Union [hereafter: CEU], 2001). A few months later, on November 15, 2001, a specialized counter-terrorism unit, the Counter-Terrorism Task Force (at some point called the Task Force Terrorism) became fully operational at the Europol headquarters. This specialized unit consists of terrorism experts and liaison officers from police and intelligence services of the EU member states. The Counter-Terrorism Task Force is assigned to: (a) collect all relevant information and intelligence concerning the current terrorism threat in the European Union; (b) analyze the collected information and undertake operational and strategic analysis; and (c) formulate a threat assessment, including targets, *modus operandi*, and security consequences (Europol website). A year after its creation, the Counter-Terrorism Task Force was incorporated into Europol's Serious Crime Department (CEU, 2005b), but after the terrorist bombings in Madrid on March 11, 2004, the Task Force was re-established as a separate entity. There are currently 15 Europol staff working permanently on terrorism matters in addition to 10 experts who are seconded from member states to the Counter-Terrorism Task Force and 22 analysts from the Serious Crime Department who have been assigned to counter-terrorism duties.

Among the most concrete results of the Counter-Terrorism Task Force to date are the production of several threat assessments concerning the presence of terrorist groups in Europe and an overview of existing counter-terrorism security measures in the EU. Assessing the terrorist threat in Europe, Europol maintains two so-called "analysis work files." The analysis work file "Islamic Terrorism," active since 1999, focuses on Islamic fundamentalist terrorism, whereas the analysis work file "Dolphin" focuses on all other terrorist groups and activities.

Other Task Force activities include assessments on the financing of terrorism, various analyses of information concerning terrorist movements in Europe, and the establishment of an Arabic-to-English translation system for the evaluation of Arabic intelligence.

The events of 9/11 also influenced the EU's formal policy decisions against terrorism. Among the most important of the newly instituted EU policies are the so-called "framework decisions" on terrorism and related matters, such as joint investigation teams and mutual legal assistance, that were agreed upon by the Council of the European Union in June 2002 (Council of the European Union, 2002). The Council framework decisions define terrorist offences as various criminal activities, such as attacks upon a person's life, kidnappings, the destruction of public facilities, the seizure of means of public transportation, as well as threats to commit any of these acts, when they are committed with the aim of seriously intimidating a population, unduly compelling a government or international organization from performing or abstaining from any act, and/or seriously destabilizing or destroying the fundamental structures of a country or of an international organization. In matters of police cooperation, the framework decisions call for an improvement of cooperation among the counter-terrorist units of the EU member states. To this end, joint investigation teams can be set up by the security forces of two or more EU member states for a specific purpose and for a limited period. Among the requirements, the leader of the team operating in any one EU country must be from that country, and the team must always operate according to the laws of the member state in which it operates. A newly introduced European Arrest Warrant allows for the handing over of wanted persons directly from one member states' judicial authority to that of any other EU state.

The 2002 framework decisions also suggested an elaboration of Europol's counter-terrorism mandate and international cooperation activities. The police organization is now formally allowed to maintain relations with police and security forces outside the EU. Europol entertains cooperative relations with Interpol and with FBI as well as police of other non-EU states, some of which now have liaison officers at the Europol offices in The Hague (interview). Europol, conversely, maintains a liaison office in Washington, DC, created as a result of a cooperation agreement between Europol and the United States that was first adopted a few weeks after September 11, 2004. The agreement was renewed after the March 2004 terrorist bombings in Madrid, Spain, when the EU drafted a new "Declaration on Combating Terrorism" that reaffirmed the 2002 framework decisions (Council of the European Union, 2004a, 2004b).

Europol's Counter-Terrorism Programs

Alongside of the establishment of the Counter-Terrorism Task Force, Europol set up a variety of functionally specialized programs. A "Counter Terrorism Program" was created to coordinate all Europol activities against terrorism,

including information gathering and threat assessments. Upon request from a member state, Europol also supports operational investigations by EU police and joint investigation teams (Schalken & Pronk, 2002). Europol's "Counter Proliferation Program" covers all forms of illicit trafficking, including nuclear materials, arms, and explosives. A "Networking Program" aims to establish contacts and coordination among the experts of the two prior programs and experts of other international organizations and police of non-EU states. Europol's "Preparedness Program" was created to develop multilateral investigative teams in the case of certain terrorist incidents in the EU. Finally, in support of the intelligence and investigative programs, a "Training and Education Program" has been set up to provide training to relevant personnel in the EU member states.

The impact of Europol's strategies, including its counter-terrorism operations, in terms of criminal investigations and arrests is at present difficult to estimate, not only because of the relatively recent establishment of Europol and its Counter-Terrorism Task Force, but also because Europol is very protective of the organization's assistance in investigative activities. Information on ongoing criminal investigations (so-called operational data) are typically treated confidentially by police organizations, but Europol officials are also reluctant to provide information, even information as general as the number of arrests that have been made on the basis of Europol support, because the organization seeks to safeguard the integrity and autonomy of the National Units. Such sensitivity is considered especially important because of the legal and cultural diversity that exists across the EU member states (interview). In 2005, an effectiveness study of the EU's counter-terrorism policies was published, but most of the information in the report is not declassified, and no Europol information is mentioned (CEU, 2005c). Europol officials occasionally confirm that cooperation is being provided, but will not reveal any specifics of such cooperation. Europol will sporadically claim to have participated in certain high-profile investigations, such as when police in 13 European countries in June 2005 raided some 150 homes in a massive Europol-supported operation against child pornography networks ("As Europe hunts," 2005). One Europol document mentions that, by May 2005, 21 investigation in various member states were using the terrorism analysis services of Europol, but no further information is provided (CEU, 2005b).

The little systematic information that is available about Europol's activities in support of investigative matters comes from the organization's Annual Reports (available on the Europol website). These numbers reveal that Europol is increasingly being used by the EU member states' National Units. While the number of cases that reached Europol in the year 2000 had dropped slightly to 1,922 from 1,998 the year before, that number rose to 2,429 in 2001. While there may have been an effect towards greater cooperation following the events of 9/11 in that year, most cases in 2001 were not terrorism-related but concerned drugs crimes (51 percent), illegal immigration (17 percent), and stolen vehicles (8 percent). The Annual Reports for 2002 and 2003 indicate an

increase in the total number of cases that were initiated: 3,413 in 2002 and 4,700 in 2003. The Annual Report for 2004 does not mention the total number of cases, but it specifies the total number of operational messages at 154,000, a considerable increase from the 94,723 messages in 2003. Europol officials attribute the rise in the use of its services to the growing awareness among Europe's police and intelligence agencies of the advantages of Europol, the enlargement of the EU in 2004, and the more targeted approach of its activities surrounding matters of organized international crimes, including terrorism, drugs, illegal immigration, and financial crimes.

Dynamics of Counter-Terrorism

Reviewing the structure and activities of Europol and its counter-terrorism activities on the basis of the theoretical model of police bureaucratization, I will argue that a duality and tension can be noted in the manner in which the police organization relates to the formal political structure of the European Union, on the one hand, and the organizational and operational components of the organization, on the other. Europol is an international police organization that is formally mandated by the European Union and overseen by the regulatory bodies of the EU. At the same time, however, Europol coordinates activities among National Units drawn from existing police and security agencies in the EU member states. These agencies are highly bureaucratized in respect of the knowledge and know-how of their enforcement duties, which will also influence the workings of Europol as a collaborative organization. In terms of its operations and objectives, indeed, Europol's activities are primarily guided by concerns over efficiency on the basis of a broadly understood mandate. Europol's operations, furthermore, are framed within the context of the interests of the EU and its participating national states, bringing about a "Europeanization" of counter-terrorism.

Europol in the European Union: Formal Legality and Professional Expertise

The political framework of Europol as a body formally sanctioned within the structures of the EU creates certain opportunities that other international police organizations lack. Most distinctly, inasmuch as Europol's mandate is legally specified, the organization has a clearly defined and limited field of operations. Other international police organizations have often experienced problems in coming to terms among the many participating police agencies about the proper boundaries of their law enforcement objectives and activities, because the legal systems and police traditions of countries vary considerably (Deflem, 2006). Europol is instead guided by a formal set of documents that lays out the organization's functions and structure. Relatedly, Europol can also rely on formal agreements of cooperation with the various participating police institutions and

their respective national governments and likewise formally maintain external agreements with non-EU states. In the history of international policing, the formal status of membership in Europol is one of the organization's most outstanding characteristics, as other organizations of international policing rely only on informal resolutions, typically in the form of a memorandum of understanding (Deflem, 2002).

The formal legality of Europol can also pose certain restrictions to the organization's structure and capabilities. Europol's Directorate is appointed by the EU Council of Ministers for Justice and Home Affairs. This dependency on the EU Council in determining the leadership of Europol had a clearly negative effect when the Council Ministers were recently unable, over a period of more than half a year, to appoint a new Director after the 5-year term of Europol's first Director, Jürgen Storbeck, had expired in July of 2004 ("EU interior," 2004; "German report," 2005). While Mariano Simancas of Spain served as Interim Director, four countries (Spain, Italy, Germany, and France) each proposed their own candidate for the vacancy, but a lengthy dispute ensued, and no new Director could be agreed upon until February 2005, when the German Max-Peter Ratzel was finally appointed. In the wake of the 2004 terrorist bombings in Madrid that killed 191 people and wounded more than 1,800, the wrangling over which national would be allowed take up the Europol post betrays the shortcomings of international cooperation when nationalist sentiments and political concerns drive the agenda, rather than considerations of expertise in matters of law enforcement.

The political decision-making process in the EU can also be relatively ineffective in fostering police cooperation. In the aftermath of the terrorist bombings that hit Madrid in March 2004 and London in July 2005, the Council of the European Union swiftly agreed to condemn these attacks, strengthen the European commitment to fight terrorism, and propose a new series of counter-terrorism measures (CEU, 2005a; "EU's anti-terror response," 2004). However, not all of those measures have been implemented at the national level of the EU member states, where political-ideological squabbling often prevents the passing of appropriate legislation ("EU ministers," 2005). One of the investigating judges in the 2004 Madrid terrorist bombings summed up the situation well, when he argued that the political goodwill to enhance "cooperation and coordination in the fight against terrorism ... generally lasts no longer than the duration of the symposium" ("EU terror chief," 2004). Among the few concrete results of the EU Ministers' counter-terrorism efforts has been the creation of a new "EU Counter-Terrorism Coordinator," a position that is currently occupied by the Dutchman Gijs de Vries, often nicknamed "Mr. Terror" in the European press.

While counter-terrorism cooperation at the political level sometimes remains an expression of goodwill with few consequences, police and security agencies do achieve cooperation in practical matters. In part, these accomplishments are achieved by European counter-terrorism officials gathering at meetings separate from the EU Ministers. After the Madrid bombings in March 2004, for example, several meetings of police and intelligence officials were held ("EU Police chiefs

to discuss Madrid attacks," 2004). In Dublin, the European Chiefs of Police Task Force, representing all 25 (then current and future) EU states, held a two-day conference with representatives of Europol, Interpol, and police officials of Norway and Iceland. Coinciding with the police meeting was an additional meeting of intelligence chiefs of five European nations (Spain, Britain, France, Germany, and Italy) in Madrid. Similarly, a few days after the July 7 bombings in London, a confidential meeting of police, intelligence officials, and forensic experts was held at Scotland Yard ("Police call," 2005). Among the attendants were officials from about 30 countries, including the United States, Israel, Australia, Japan, and the EU states, as well as representatives from Interpol and Europol. Additionally revealing the level of effective cooperation at the police level, investigative support in the inquiries in the London bombings was provided by Spanish and American forensic teams ("Terror in London," 2005).

While the formal legal framework set by the European Union's governing bodies places limits on the autonomy of Europol, the organization also engages in cooperation agreements at an institutional and nation-state level. Europol maintains relations with countries outside the European Union, such as Switzerland, Turkey, Colombia, and the United States, and with other international police organizations (Mitsilegas, 2003; Paye, 2004; Schalken & Pronk, 2002; Seitzner, 2003). Although Europol's cooperation agreements have to be approved by the EU Justice and Home Affairs Ministers, it is important to note that they are initiated at the request of Europol's Management Board. Europol's agreements with other police organizations have distinct implications in terms of the organization's autonomy as an international police body. The cooperation between Europol and Eurojust, the European prosecutorial office, originally located in Brussels, Belgium, and now moved permanently to The Hague (Eurojust website), harmonizes with the fact that Europol and Eurojust are both formal EU-sanctioned organizations. But other cooperation agreements enable Europol to expand its scope beyond the formally proscribed mandate of the EU. For example, Europol cooperates with the Counter Terrorism Group (CTG) that was formed after 9/11. Unlike Europol, the CTG was formed at a professional level by the heads of the police and intelligence services of the EU member states. Importantly, the CTG does not operate on the basis of a formal mandate by the European Union, but on the basis of a memorandum of understanding that was drafted and agreed upon by the participating heads of police. Cooperating with the Counter Terrorism Group, Europol can therefore route information more quickly (interview).

Europol entertains agreements similar to the one it has with the Counter Terrorism Group with other police organizations that are marked by a high degree of bureaucratic autonomy, such as Interpol and the European Police Chiefs Operational Task Force (PCOTF). The cooperation between Europol and the PCOTF concerns several counter-terrorism issues, such as the operational analysis of "Islamic Extremist Terrorism," terrorism threat assessments, the financing of terrorism, and weapons of mass destruction. Importantly, the PCOTF is, like the CTG, not regulated on the basis of an explicit EU treaty and

has no formal accountability to the Union, but was instead formed on the basis of a recommendation from the European Council in October 1999 (Statewatch, 2004).

Thus, Europol's formal status as an international organization in the EU is supplemented by an independent structure of international cooperation at the bureaucratic level of police institutions. Besides cooperation agreements, the interlinking of multiple international police organizations is also accomplished by overlapping memberships in their respective leadership structures. For example, the Assistant Commissioner of the Irish National Police Service also acts as representative on the Europol Management Board, the Police Chiefs Task Force, and the Club of Berne (An Garda Síochána, 2004).

Europol as Bureaucracy: Efficiency in Crime Control

Despite Europol's origins in the context of an international political union, the organization's policing and counter-terrorism operations are organized in the rationalized terms of an efficient control of crime. Europol relies on the participation of existing police institutions in the EU for the staffing of the headquarters and the Europol National Units in the 25 member states. Personnel at the headquarters and in the National Units is typically made up of experts in international policing with prior experience participating in non-governmental international police organizations. Europol's recruitment of police professionals from existing national police and intelligence agencies may seem obvious, but the implication of this reliance is nonetheless that the international organization can operate only within the context of an existing professional culture of policing.

Besides the creation of the Counter-Terrorism Task Force as a specialized unit and the development of functional programs to combat terrorism, the relevance of instrumental rationality in Europol can also be observed in the organization's emphasis on efficiency in operations. As is the case in other international police organizations (Deflem, 2002, 2004b, 2006), an emphasis is placed in Europol's crime-fighting activities on establishing swift methods of communication and information exchange among the participating agencies. Most distinct in this respect has been the creation of Europol as a cooperative network with a central headquarters that functions to enable rapid communications among the various National Units. The practical advantages of such a structure are considerable from an efficiency-oriented viewpoint as the participating agencies need not contact one another directly but can route information via The Hague to be passed on to all other member agencies. Europol communications with the National Units rely on the latest advances in technology by means of an "Information Exchange System" (INFO-EX) that enables encrypted electronic messages.

Europol's emphasis on efficiency in cooperative matters is also seen in the various agreements the organization oversees with non-EU states. Europol's liaison office in the United States, for instance, functions to ease cooperation with the

various US law enforcement agencies. It does so directly in police matters that concern the United States and two or more member states, and it handles requests to US police from the National Units in the EU member states (interview). Europol cooperation with local and state police agencies in the United States is accomplished via the US National Central Bureau, the US representative of Interpol. Similarly indicating the concern with efficiency in communications, Europol officials have expressed concerns that some of the newest member states (the so-called "accession states," such as Estonia and Lithuania) do not possess the necessary infrastructure to effectively participate in international police cooperation (Storbeck, 2003).

An emphasis on efficiency does not necessarily imply effectiveness. Among the obstacles Europol faces with respect to counter-terrorism is the fact that terrorism is in some EU countries dealt with by police agencies, whereas intelligence agencies are responsible for counter-terrorism in other EU states. Cooperation across intelligence and police agencies can be difficult, because police institutions tend to be interested in specific information about suspects in order to make an arrest, whereas intelligence agencies are very broadly interested in general information without prosecutorial purposes (interview).

The technical, rather than political, nature of the difficulties in police cooperation is further revealed from the emphasis on linguistic matters of communication, at the level of police and with respect to the targets of their activities. The lack of knowledge of Arabic among Europe's police forces and resulting difficulties in penetrating underground groups of non-European origin are obvious and important concerns (Kupchinsky, 2004). Police cooperation is further compounded by the linguistic, cultural, legal, and political diversity that exists across the countries of the European Union (Tak, 2000). All the information which Europol receives in the area of terrorism has to be translated in some 11 languages before it can be sent to the National Units in the member states (interview).

Among the implications of police bureaucratization in terms of efficiency, it is important to note that not only can police agencies independently determine the proper means of policing, but also they can specify the objectives of police work given a broad and generally formulated mandate of crime control (Deflem, 2002, 2004b). In the case of Europol, the relative restrictiveness of the organization's formal mandate can be evaded by relying on existing police agencies in the EU and broadening the organization's membership by cooperating with other international police organizations and the agencies of non-EU nations. As a result, Europol can rely on a well-developed international police culture, in Europe and across the world, which has for a long time forged international relations on the basis of a common understanding of the function of police. As research has shown (Deflem, 2002, 2005a), the development of an international police culture in the industrialized world can be traced back to at least the late nineteenth century when police institutions began to develop international cooperation for the policing of criminal, rather than political, offences. Therefore, also, Europol's participating agencies and those with whom Europol

cooperates typically will be able to agree on the scope of terrorism-related activities, despite the diversity of the legal systems of the EU member states (den Boer, 2001; Tak, 2000).

What is most remarkable given the range of institutions that cooperate with Europol is not that problems occasionally ensue, but that there has been a trend towards the development of a shared understanding of terrorism across the globe since the events of 9/11. Much like is the case with police organizations in the United States and other parts of the world (Deflem, 2004b, 2006), Europol's counter-terrorism focus has gone most centrally to "Islamic extremist terrorism" or "fundamentalist jihadist terrorism" (Europol website). In a Europol terrorism trends report of December 2004, al-Qaeda and its affiliates are mentioned as a main security concern against European and Western interests (Europol, 2004, pp. 23, 41). Other terrorist groups Europol focuses on include the separatist Basque group ETA, the Real IRA, Bosnian and Chechen nationalist groups that organize in Austria, and extreme leftists and anarchist groups in Italy, Germany, and elsewhere. These assorted terrorist groups are similarly targeted by Europol because of the impact their criminal activities have on European societies, irrespective of the groups' political motivations. Harmonizing with the comprehensive definition of terrorism in the EU framework decisions (Council of the European Union, 2002), Europol and its participating agencies thus focus on terrorism very broadly in terms of the commonalities terrorist activities have as a criminal, rather than a political, offense.

Europol in Europe: The Boundaries of International Cooperation

No single international police organization has ever been formed as a supranational force, although occasionally calls are made for the creation of such an international agency. In the context of Europe's recent counter-terrorism experience, for example, the Ministers of some EU member states expressed their preference to create a "European Intelligence Service." At the EU Council meeting after the Madrid bombings in 2004, the Belgian and Austrian Ministers expressed their hope that the agency would be modeled after the CIA or the FBI in the United States ("One year from Madrid" 2005). Ultimately, the proposed new body was conceived as a clearing house of information on extremist groups, but no such new agency was ever set up, indicating that supranationalism in police and intelligence cooperation could not be achieved. The collaborative model of international cooperation was affirmed in the continued and expanded role of Europol. The one limited form of supranationalism that was accomplished after Madrid is the new position of Counter-Terrorism Coordinator. However, the Coordinator cannot propose legislation and has no real authority over the EU member states but acts only in the limited capacity of advisor.

The persistence of nationality in international policing also affects Europol's cooperation efforts. Although the establishment of a Europol National Unit is required for all EU member states once they have joined Europol, the organization

and staffing of the National Unit are entirely up to the member states. Information exchange with the Europol headquarters, also, is voluntary, and the level of involvement from the various National Units in Europol varies greatly from one country to the next (interview). Differences in the level of participation in Europol are not surprising inasmuch as police can be expected to be involved in international activities to a degree that is determined by their experience with relevant criminal problems. However, indications are that other factors play a role as well and that even in the case of international terrorism and organized crime—problems which effectively cross national boundaries—cooperation is not always easily accomplished. A sense of trust among police and an expectation of positive outcomes are among the central concerns in international cooperation irrespective of the availability of technologically advanced communication systems (interview). Absent these prerequisites, police may be reluctant to share information even when they formally participate in international organizations such as Europol. Europol officials themselves have conceded that cooperation could be improved. Following the 2004 bombings in Madrid, then Europol Director Jürgen Storbeck criticized the EU member states for paying mostly “lip service” to the international organization (Big Five, 2004).

An indication of a lack of cooperation among Europe’s counter-terrorism forces was revealed after the Madrid bombings, when French police officials were outraged over the fact that their Spanish counterparts refused to share information on the types of explosives that had been used (Kupchinsky, 2004). Likewise, after a Moroccan citizen, who used to live in Hamburg, Germany, was arrested by Italian authorities in April 2003 because of his association with a Milan-based Al-Qaeda cell, it turned out that the man had already been questioned by German police just a few weeks after the 9/11 attacks. Information about the suspect, however, had not been shared among Europe’s police (“As Europe hunts,” 2004). Such findings indicate that police agencies remain concerned primarily with nationally defined enforcement tasks, even when these tasks involve criminal problems of an international nature.

In consequence, although the intelligence and analysis capacities at the Europol headquarters have improved considerably, the volume of data that reaches Europol is said to remain relatively “sparse” (“German report,” 2005). While indications are that Europe is facing a growing number of internationally organized militant organizations, agencies in the EU states are reluctant to share information on a multilateral scale and instead engage in more limited bilateral cooperation. The preference of bilateral cooperation is most noticeably revealed in the relations between Europol and the FBI. Despite the cooperation agreement between Europol and the United States, the FBI prefers to conduct its international cooperation directly with the police of the EU member states in a bilateral context. Whenever a EU member states contacts Europol with a request to the FBI, the message is not passed on via the Europol Liaison Office in Washington but is routed to the FBI legal attaché in the EU member state from which the request originates (interview). The police agencies of some member states, furthermore, have their own liaison officers

stationed in Washington, DC, and supplement the Europol system by means of bilateral cooperation with US agencies.

National and regional persistence in international policing, finally, is also reflected in Europol's focus on those terrorist and other criminal conditions that are specific to the European Union. The "Europeanization" of international counter-terrorism policing is not surprising as the disappearance of Europe's internal borders with the European unification was the primary motivating factor in developing enhanced police cooperation (den Boer, 2003). But cooperative activities with police organizations beyond the European Union will also be influenced by such European concerns. Thus, Europol concentrates its efforts on Islamic fundamentalist terrorist groups inasmuch as they are active in or otherwise relevant to Europe. In the EU, some countries are targeted because of their involvement in the wars in Iraq or Afghanistan, or because of some specific regional factor, such as the ban on Islamic veils in French schools (Europol, 2004). Other counter-terrorism matters with which Europol is involved are distinct to some of the EU's nation states, such as the various nationalist terrorist groups that operate in Spain and the United Kingdom.

Conclusion

As in the case of other police and criminal justice agencies in many countries across the world, counter-terrorism activities by Europol have increased considerably in scope and significance since the events of September 11. With the focus continuing to be oriented at terrorist activities that are planned by certain extremist Islamic-affiliated groups, and in view of the persistent tensions surrounding related political issues such as the war in Iraq, it is clear that international terrorism will remain a central driving force in forging cooperation among police and security agencies in the European Union and elsewhere in the world. Terrorism, in general, and Islamic extremist terrorism, in particular, will surely remain important elements in shaping international police efforts in Europe, because they are perceived as major threats to European security. Europol's counter-terrorism programs and instruments can similarly be expected to be elaborated and relied upon by participating police agencies.

In the broader constellation of international police developments, Europol takes up a special place. Europol is a unique international police organization in having been created by the international governing body of the European Union, whereas other international organizations of policing have been formed from the bottom up by police professionals. Europol's dependence on the regulatory oversight capacities of the European Union creates a legal framework of police cooperation that can increase the organization's accountability (den Boer, 2002), but that can also hinder effective cooperation among police, if only because police officials perceive accountability requirements as intrusions on their activities (Alain, 2001).

Despite being a formally sanctioned institution in the EU, Europol is also dependent on and a manifestation of a professional police culture that evolved at the European and broader international level. Broadening its scope beyond the European Union, Europol relies on cooperative agreements with professional police agencies inside and outside Europe and with non-governmentally formed international police organizations, such as the Counter Terrorism Group and the Police Chiefs Operational Task Force. Maintaining relations with such institutions, Europol can rely on counter-terrorist and other policing practices that have developed on the basis of professional expertise. The extent to which police work in Europol is bureaucratized may lead to concerns that the organization's activities, especially in the sensitive area of terrorism, emphasize efficiency in police work without sufficient regard for considerations of legality and justice. Such concerns are amplified because of Europol's international computerized data system and the power of the organization in influencing police work in the EU member states. Also, Europol is a relatively young organization, so that it may be expected to continue to evolve into a more fully developed bureaucratic institution characterized by a high degree of institutional independence.

Europol's activities against international crime and terrorism focus on distinctly European problems or the European dimensions of more global concerns. Islamic extremist terrorism, particularly, is conceived by Europol as a global criminal concern that also affects security conditions in the European Union. Because of the involvement of European al-Qaeda cells in the terrorist attacks of September 11 and in view of the affiliations of the perpetrators of the terrorist attacks in Madrid in 2004 and in London in 2005, these justifications have foundation. Europol and other police organizations had anticipated some of these developments. In December 2004, for example, Europol had already singled out the United Kingdom as a special target of al-Qaeda terrorism and warned that "active extremist cells of European Union citizens of second generation Pakistani origin" deserved special consideration (Europol, 2004; "Terrorism," 2005). At the same time, given the considerable presence in Europe of people with Middle-Eastern and Muslim origins, the focus in Europol's counter-terrorism operations on Islamic extremism can have effects beyond those explicitly intended, inasmuch as suspicions may arise among the public that counter-terrorist police operations reveal an anti-Muslim bias. So far, however, the emphasis on Islamic fundamentalist terrorism has met with little opposition. Only the Turkish press has occasionally criticized Europol's suspected overconcentration on Islamic-linked terrorist organizations ("Shallow fight," 2005).

Because of Europol's focus on the criminal aspects of terrorism, the Europeanization of counter-terrorism does not usually clash with the operations against terrorism that are being waged by many other police organizations across the world. But this police focus on terrorism as a crime cannot always be harmonized with anti-terrorist activities that conceive of terrorists as enemies or unlawful combatants. From the United States viewpoint, there are many criticisms on the "war on terror" in terms of its domestic repercussions in terms of

civil rights, but the use of the metaphor as a source of US concerns over Europe's supposed lack of cooperation in military matters is less severely criticized. Yet, it is clear that charges that Europe is "soft" on terrorism cannot be founded. What is the case is that Europe has more experience in approaching terrorism more exclusively as a police matter and that the European public tends to be wary of military actions (LaPorte, 2004). It is uncertain if the occasionally strained relations across the Atlantic in political and military respects will also affect cooperation among relevant police authorities, or if the latter can maintain a level of independence. Continued research by social scientists studying the crime and criminal justice dimensions of terrorism and counter-terrorism can contribute to formulating adequate answers to such central questions of contemporary public policy, providing their research is framed within useful contexts and, as always, guided by theoretically meaningful models of analysis.

Acknowledgments

A previous version of this paper was presented at the annual meeting of the American Society of Criminology, Denver, November 2003. The Richard L. Walker Institute of International and Area Studies provided funding for this project. I thank the Editor, Chester Britt, and the anonymous reviewers at *Justice Quarterly*, for their help in finalizing this paper. I am grateful to Brian Hudak, for his valuable research assistance.

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The University of Chicago Law Review

Volume 72	Fall 2005	Number 4
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Failed States, or the State as Failure?

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This Article seeks to challenge a basic assumption of international law and policy, arguing that the existing state-based international legal framework stands in the way of developing effective responses to state failure. It offers an alternative theoretical framework designed to spark debate about better legal and policy responses to failed states. Although the Article uses failed states as a lens to focus its arguments, it also has broad implications for how we think about sovereignty, the evolving global order, and the place of states within it.

State failure causes a wide range of humanitarian, legal, and security problems. Unsurprisingly, given the state-centric international legal system, responses to state failure tend to focus on restoring “failed” states to the status of “successful” states, through a range of short- and long-term “nation building” efforts. This Article suggests that this is a misguided approach, which in some cases may do as much harm as good.

In large part, this is because most “failed” states were never “successful” states. Indeed, the state itself is a recent and historically contingent development, as is an international legal system premised on state sovereignty. What’s more, both states and the state-centric international system have poor track records in creating stability or democratic accountability.

This Article explores the implications of this for approaches to failed states. It concludes that although the existing state system is likely to survive for some time to come, despite the challenges of globalization, not all states will or should survive in their current form. The populations of many failed states might benefit more from living indefinitely in a “nonstate” society than in a dysfunctional state, artificially sustained by international efforts.

Long-term “nonstate” arrangements could range from international trusteeships to affiliations with willing third-party states to special status within regional bodies, and alternative accountability

† Associate Professor of Law, University of Virginia School of Law. This Article has benefited greatly from comments made by workshop participants at the University of Virginia School of Law, Boalt Hall School of Law, the Georgetown University Law Center, and Vanderbilt University Law School, and it would not exist at all had it not been for the initial suggestions from participants in the 3rd Junior International Law Scholars’ Roundtable, who convinced me that this is a conversation worth starting. Many people offered wise comments on early drafts, and had I always taken their advice this Article would likely be much better. I am particularly grateful to William Aceves, Allison Danner, Laura Dickinson, Greg Fox, Larry Helfer, John Harrison, Paul Kahn, Judith Kelley, David Luban, Beth Simmons, Paul Stephan, Jane Stromseth, Carlos Vazquez, Robin West, David Wippman, and Tim Wu. Kevin Donohue provided outstanding research assistance.

mechanisms could be developed to overcome democratic deficits associated with the lack of formal legal statehood as currently understood by international law.

INTRODUCTION: FAILED STATES

In the fifteen years since the end of the Cold War, the international community—and the community of international lawyers—has become increasingly preoccupied with the phenomenon usually dubbed “state failure.”¹ Definitions of the failed state vary, but, unsurprisingly, most commentators define failed states in opposition to the successful states that are presumed to be the norm.² Successful states control defined territories and populations, conduct diplomatic relations with other states, monopolize legitimate violence within their territories, and succeed in providing adequate social goods to their populations.³ Failed states, their dark mirror image, lose control over the means of violence, and cannot create peace or stability for their populations or control their territories. They cannot ensure economic growth or any reasonable distribution of social goods.⁴ They are often characterized by massive economic inequities, warlordism, and violent

¹ See, for example, Stuart E. Eizenstat, John Edward Porter, and Jeremy M. Weinstein, *Rebuilding Weak States*, Foreign Aff 134 (Jan–Feb 2005) (discussing how to limit threats to America by rebuilding failed nation-states); J.L. Holzgrefe and Robert O. Keohane, eds, *Humanitarian Intervention: Ethical, Legal, and Political Dilemmas* (Cambridge 2003) (analyzing humanitarian intervention in the context of state failure); Henry H. Perritt, Jr., *Structures and Standards for Political Trusteeship*, 8 UCLA J Intl L & Foreign Aff 385 (2003) (proposing a political framework based on trusteeship as a model for international intervention in failed states); Karen Musalo, Jennifer Moore, and Richard A. Boswell, *Refugee Law and Policy* 985–88 (Carolina Academic 1997) (defining failed states as “states which are incapable of protecting individuals within their territories”).

² The term “failed state” is only about a decade old, coming to prominence with the publication of Gerald B. Helman and Steven R. Ratner’s article, *Saving Failed States*, 89 Foreign Policy 3 (Winter 1992–93) (describing the “failed nation-state” as “utterly incapable of sustaining itself as a member of the international community”). Helman and Ratner’s definition has gained widespread acceptance. See Ralph Wilde, *The Skewed Responsibility Narrative of the “Failed States” Concept*, 9 ILSA J Intl & Comp L 425, 425 (2003).

³ The concept of “the state” is complex and controversial in and of itself, and scholars have long sought to distinguish between varieties of states and varieties of sovereignty. For the classic legal definition of statehood, see the Montevideo Convention: “The state as a person of international law should possess the following qualifications: (a) a permanent population; (b) a defined territory; (c) government; and (d) capacity to enter into relations with the other states.” Convention on Rights and Duties of States Art 1, 49 Stat 3097, 3100, 165 LNTS 19, 25 (1933). For classic functional definitions of statehood, see, for example, Max Weber, *Essays in Sociology* 77, 78 (Oxford 1946) (H.H. Gerth and C. Wright Mills, eds and trans) (“[The] state is a human community that (successfully) claims the *monopoly of the legitimate use of physical force within a given territory*.”).

⁴ See Robert I. Rotberg, *The New Nature of Nation-State Failure*, 25 Wash Q 85, 85–87 (Summer 2002) (“Nation-states fail because they can no longer deliver positive political goods [security, education, health services, economic opportunity, environmental surveillance, legal framework of order and a judicial system to administer it, and fundamental infrastructure requirements] to their people.”).

competition for resources.⁵ Recent examples of failed states are familiar to us all, from the total collapse of state institutions in Somalia⁶ and the disintegration of the former Yugoslavia⁷ to the varied crises in Rwanda,⁸ Haiti,⁹ Liberia,¹⁰ Congo,¹¹ Sierra Leone,¹² and Afghanistan.¹³ One notch up the food chain from failed states are the numerous “weak” or “failing” states,¹⁴ which together constitute much of sub-Saharan Africa,¹⁵ significant chunks of central Asia, and parts of Latin America and south Asia. These “weak” states are tremendously varied, and may in some cases combine fragile governance structures with substantial regional influence and wealth—consider Indonesia, Pakistan, and Colombia—but they all teeter in common on the precipice, at seemingly perpetual risk of collapse into devastating civil war or simple anarchy.¹⁶

⁵ See Eizenstat, Porter, and Weinstein, *Rebuilding Weak States*, Foreign Aff at 136 (cited in note 1) (noting that failed states do not provide security, basic services, or “essential civil freedoms”); African Studies Center, Transnational Institute, Coimbra University Center of Social Studies, and Peace Research Center-CIP-FUHEM, *Failed and Collapsed States in the International System* 4 (Dec 2003), online at <http://www.tni.org/reports/failedstates.pdf> (visited Sept 18, 2005) (stating that the government of a failed state is “unable to uphold an effective monopoly of violence” over its territory); Daniel Thurer, *The “Failed State” and International Law*, 81 Intl Rev Red Cross 731, 733–36 (1999) (describing political, historical, and sociological dimensions of failed states); Helman and Ratner, 89 Foreign Policy at 4–5 (cited in note 2) (describing how Somalia, Sudan, and Zaire suffered after their governments collapsed).

⁶ For further background on state failure in Somalia, see, for example, Eric Schmitt, *Somalia's First Lesson for Military Is Caution*, NY Times 10 (Mar 5, 1995).

⁷ For further background on state failure in the former Yugoslavia, see, for example, Michael T. Kaufman, *Killings Shaped Serbia and Also Roiled Europe*, NY Times A10 (Mar 13, 2003).

⁸ For further background on state failure in Rwanda, see, for example, Barbara Crossette, *Inquiry Says U.N. Inertia in '94 Worsened Genocide in Rwanda*, NY Times A1 (Dec 17, 1999).

⁹ For further background on state failure in Haiti, see, for example, Michael Kamber, *A Troubled Haiti Struggles to Gain Its Political Balance*, NY Times 1 (Jan 2, 2005).

¹⁰ For further background on state failure in Liberia, see, for example, Somini Sengupta, *Fate of Idle Ex-Fighters Poses Challenge for Liberia*, NY Times A16 (Nov 27, 2003).

¹¹ For further background on state failure in Congo, see, for example, Ian Fisher and Norimitsu Onishi, *Chaos in Congo: A Primer; Many Armies Ravage Rich Land in the 'First World War' of Africa*, NY Times 1 (Feb 6, 2000).

¹² For further background on state failure in Sierra Leone, see, for example, Norimitsu Onishi, *Sierra Leone Endures in the Grip of Civil War*, NY Times 8 (Nov 19, 2000).

¹³ For further background on state failure in Afghanistan, see, for example, Stephen Kinzer, *Break Up Afghanistan? Why Not?* NY Times A15 (Dec 1, 2001).

¹⁴ Rotberg, 25 Wash Q at 85 (cited in note 4) (“Only a handful of the world’s 191 nation-states can now be categorized as failed, or collapsed, which is the end stage of failure. Several dozen more, however, are weak and serious candidates for failure.”).

¹⁵ Consider Cote d’Ivoire, Zimbabwe, Burundi, Mozambique, and Angola, to name but a few of the most notorious. See Okechukwu Emeh, *Africa and the Crisis of Instability*, Vanguard (Nigeria) (Mar 30, 2004) (describing the “unfolding failed state” syndrome that threatens to spread from failed African states to their neighbors).

¹⁶ See Robert Cooper, *The Breaking of Nations: Order and Chaos in the Twenty-First Century* 16–18 (Atlantic Monthly 2003) (arguing that many states are in danger of reverting to “pre-modern” states if nonstate actors become too strong).

State failure creates numerous challenges for the international system. Some challenges are humanitarian, as state failure generally is both fueled by and creates overwhelming human need.¹⁷ The poverty, disease, violence, and refugee flows accompanying state failures strain foreign aid budgets and philanthropic resources. Some challenges relate to international security: especially since 9/11, failed states have been recognized as breeding grounds for extremism and staging points for organized terrorist groups.¹⁸ In the absence of effective governmental control, both violence and illicit economic activity flourish,¹⁹ and both terrorist groups and the leaders of rogue states take ready advantage of the prevailing anarchy.

Failed states also pose legal challenges: in an international order premised on state sovereignty and state consent, societies lacking functioning governments create a range of problems.²⁰ They cannot enter into or abide by treaties; they cannot participate in the increasingly dense network of international trade, environmental, or human rights agreements and institutions; they cannot enforce contracts between their citizens and foreigners or protect settled property interests.²¹

For these reasons and more, failed states have increasingly been viewed as a cause for concern by the international community, and a variety of international responses have been attempted and pro-

¹⁷ See, for example, Bartram S. Brown, *Nationality and Internationality in International Humanitarian Law*, 34 Stan J Intl L 347, 401 n 239 (1998) (“The concept of the ‘failed state’ has been linked to the need for the international community to take humanitarian action where a state cannot act effectively to protect fundamental rights.”).

¹⁸ See, for example, Eizenstat, Porter, and Weinstein, *Rebuilding Weak States*, Foreign Aff at 134 (cited in note 1) (“The gravest danger lies in the weakness of other countries—the kind of weakness that has allowed opium production to skyrocket in Afghanistan, the small arms trade to flourish throughout Central Asia, and al Qaeda to exploit Somalia and Pakistan as staging grounds for attacks.”); Jessica Stern, *Terror in the Name of God: Why Religious Militants Kill* 238 (Ecco 2003) (“Americans tend to fixate on enemies that can be fought with military might. We have a much harder time seeing failing states, where terrorists thrive, as a source of danger.”); David Held, *Violence, Law and Justice in a Global Age* (Social Science Research Council 2001), online at <http://www.ssrc.org/sept11/essays/held.htm> (visited Sept 18, 2005) (“Those who are poorest and most vulnerable, locked into geopolitical situations which have neglected their economic and political claims for generations, will always provide fertile ground for terrorist recruiters.”).

¹⁹ Such activities include narcotics dealing, weapons trade, and human trafficking. See, for example, Saskia Sassen, *Governance Hotspots: Challenges We Must Confront in the Post–September 11 World* (Social Science Research Council 2001), online at <http://www.ssrc.org/sept11/essays/sassen.htm> (visited Sept 18, 2005) (“As governments become poorer they . . . have little interest in the management of emigration and illegal trafficking of people.”).

²⁰ See generally Thurer, 81 Intl Rev Red Cross 731 (cited in note 5) (discussing the problems of applying international law where states have broken down).

²¹ See *id.* at 745 (discussing the difficulties of applying international humanitarian law against those outside a military chain of command); Rotberg, 25 Wash Q at 87 (cited in note 4) (asserting that failed states’ courts cannot protect citizens’ rights).

posed.²² In response to state failure, international actors and institutions, from international and regional organizations to nongovernmental organizations (NGOs) and states, have taken steps to address the immediate humanitarian and security problems characteristic of failed states, through means that range from food aid to the deployment of peacekeeping forces. And these short-term band-aids are inevitably accompanied by longer-term efforts to rebuild damaged state structures. Whether through the provision of technical assistance or through temporary international administration of one sort or another,²³ the international community has sought to reverse state failure by fostering diverse political parties, strengthening constitutional and legal norms relating to good governance, building an independent and effective judiciary, reconstituting a professional military and police service, holding free and fair elections—all, of course, designed ultimately to return the “failed” state to the status of functioning state.²⁴ Similarly, international aid to weak states is designed to prevent state failure, in large part by shoring up core state structures.

²² See, for example, *The National Security Strategy of the United States of America* 5–24 (Sept 2002), online at <http://www.whitehouse.gov/nsc/nss.pdf> (visited Sept 18, 2005) (proposing building strong antiterrorism alliances, engaging in efforts to defuse regional conflicts, opening markets, and promoting democracy); Eizenstat, Porter, and Weinstein, *Rebuilding Weak States*, Foreign Aff at 135 (cited in note 1) (proposing a “four-pronged approach” of crisis prevention, rapid response, centralized American decisionmaking, and international cooperation); Ratner and Helman, 89 Foreign Policy at 12–18 (cited in note 2) (suggesting United Nations conservatism over failed states). For a particularly fascinating proposal, consider the recent work of Michael P. Scharf, Paul R. Williams, and James R. Hooper, who have written a series of articles on “earned sovereignty.” See, for example, Paul R. Williams, Michael R. Scharf, and James R. Hooper, *Resolving Sovereignty-Based Conflicts: The Emerging Approach of Earned Sovereignty*, 31 Denver J Intl L & Policy 349 (2003); James R. Hooper and Paul R. Williams, *Earned Sovereignty: The Political Dimension*, 31 Denver J Intl L & Policy 355 (2003); Michael P. Scharf, *Earned Sovereignty: Judicial Underpinnings*, 31 Denver J Intl L & Policy 373 (2003); Paul R. Williams, *Earned Sovereignty: The Road to Resolving the Conflict over Kosovo’s Final Status*, 31 Denv J Intl L & Policy 387 (2003). The concept of “earned sovereignty” requires a region gradually to prove its worthiness as an independent state, and although the authors propose it as a potential solution to “sovereignty-based conflicts,” such as struggles for self-determination on the part of an ethnic minority within an existing state (for example, the Republika Srpska within Bosnia, Northern Ireland within the United Kingdom, etc.), the theoretical paradigm is equally applicable in the context of failed states.

²³ Examples of international administration include supervision in Bosnia under the terms of the Dayton Accords. Bosnia and Herzegovina-Croatia-Yugoslavia: General Framework Agreement for Peace in Bosnia and Herzegovina with Annexes, 35 ILM 75 (1996). The role of the UN Interim Administration in Kosovo (“UNMIK”) under SC Res 1244, UN SCOR, UN Doc S/Res/1244 (1999), the UN Transitional Administration in East Timor (“UNTAET”) under SC Res 1272, UN SCOR, UN Doc S/Res/1272 (1999), and the Coalition Provision Authority in Iraq under SC Res 1483, UN SCOR, UN Doc S/Res/1483 (2003), also come to mind.

²⁴ See generally Rosa Brooks, Jane Stromseth, and David Wippman, *Can Might Make Rights? Building the Rule of Law in the Wake of Military Interventions* (Cambridge forthcoming 2006).

But as any careful reader of newspapers can discern, the international community has not, so far, proven to be particularly adept either at staving off state failure or at reconstituting failed states.²⁵ The number of failed states attests to the ongoing nature of the phenomenon of state failure, and the still shaky status of once failed states suggests that rebuilding effective state structures is exceptionally difficult. From Bosnia and Sierra Leone to Afghanistan and Iraq (where the collapse of government institutions was, of course, externally induced), efforts to turn failed states into successful states have produced tenuous stability at best.²⁶

I. THE FAILED STATE AS METAPHOR FOR THE INTERNATIONAL COMMUNITY

There are many reasons for the international community's poor track record when it comes to turning failed states into successful states. Many of these reasons are complex, and some are usually overlooked by international law scholars and policymakers alike.²⁷ I will address one of these often overlooked reasons later in this Article, but for the moment, I want to focus on one very straightforward reason for the international community's poor record when it comes to forestalling and remedying state failure. "The international community," as we all know, is a fiction, at least insofar as the term implies a cohesive community of states with the capacity to act in a reliably coordinated and effective fashion.

It goes without saying that the international community is a hodgepodge of actors and institutions, with divergent interests, natures,

²⁵ See, for example, Minxin Pei and Sara Kasper, *Lessons from the Past: The American Record on Nation Building*, 24 Carnegie Endowment Intl Peace 2 (2003), online at <http://www.carnegieendowment.org/pdf/files/Policybrief24.pdf> (visited Sept 18, 2005) (recounting only four successes out of the sixteen American attempts at nation-building). See also Rosa Brooks, *The New Imperialism: Violence, Norms and the "Rule of Law"*, 101 Mich L Rev 2275, 2280–82 (2003) (describing a "string of expensive disappointments" in nation-building); see also generally Brooks, Stromseth, and Wippman, *Can Might Make Rights?* (cited in note 24).

²⁶ See, for example, Andrew Higgins, *Could U.N. Fix Iraq? Word from Kosovo Isn't Encouraging*, Wall St J A1 (Aug 2, 2004) (describing United Nations missteps that culminated in rioting); Stephen D. Krasner, *Sharing Sovereignty: New Institutions for Collapsed and Failing States*, 29 Intl Sec 85, 99–100 (Fall 2004) (noting that of 124 cases of peacebuilding since World War II, only 43 were successful as measured by the absence of hostilities, and only 35 percent led to peaceful democracies); Sara Terry, *Bosnia No Model of Nation-Building*, Christian Sci Monitor 9 (July 1, 2003) (reporting 49 percent unemployment, low voter turnout, and resurgent nationalism in Bosnia eight years after the arrival of a multinational peacekeeping force).

²⁷ I have written elsewhere about efforts to build the rule of law and about post-conflict reconstruction more generally, emphasizing both the technical complexity of the tasks and the often overlooked norm-creation aspects of post-conflict reconstruction. See Brooks, 101 Mich L Rev at 2290–2300 (cited in note 25). See also generally Brooks, Stromseth, and Wippman, *Can Might Make Rights?* (cited in note 24).

and capacities. There are states, to begin with; some of these are powerful and some are weak; some are (relatively) outward-looking while others are (relatively) inward-looking, and many are in between. To point again to the obvious, states differ in territory, population, ideology, culture, and wealth, though as a matter of international law they are united by the shared myth of sovereign equality. States meet for purposes of discussion, joint action, and contestation in numerous overlapping regional and international fora, from the formally constituted (the European Union, NATO, the United Nations, the WTO) to the more informal and ad hoc (the Triad, the G-8).

But states are not the only actors on the world stage. Their influence is simultaneously challenged and extended by an ever wider range of nonstate actors. Some of these are widely viewed as more or less benevolent (Save the Children, Human Rights Watch, Greenpeace), others as fundamentally disruptive (al Qaeda, Hezbollah, the Lord's Resistance Army of Uganda). Still others are more ambivalent in nature: consider for-profit corporate entities, for instance, which may be exceptionally powerful. (Exxon-Mobil's annual revenues exceed those of all but ten or twelve of the world's richest states.²⁸) And these are only some of the publicly declared world actors. Illicit regional and global networks, such as weapons smugglers and human traffickers, also abound.²⁹ What's more, many of these nonstate actors, whether licit or illicit, also have complex (and sometimes nontransparent) links to states.

Little wonder, then, that "the international community" struggles to respond effectively to the challenges posed by failed states. There's no there there³⁰ — or, anyway, there's very little there there, despite the rhetoric of community. Indeed, from the perspective of an alien observer from another planet, "the international community" of the planet Earth must surely appear like a failed state writ large. The existing international order has proven consistently unable to control the violence of powerful actors (whether states or nonstate entities

²⁸ See Anthony Giddens, *Runaway World: The Reith Lectures Revisited*, The Director's Lectures (London School of Economics Nov 10, 1999), online at <http://www.polity.co.uk/giddens/pdfs/Globalisation.pdf> (visited Sept 18, 2005) (arguing that states are still more powerful than massive global corporations, because states control territory, military power, and legal systems).

²⁹ See, for example, Jean-Germain Gros, *Trouble in Paradise: Crime and Collapsed States in the Age of Globalization*, 43 *Brit J Criminol* 63, 63 (2003) ("[T]he so-called failed or collapsed state is the principal actor in the criminalization of the world economy, while globalization itself is an unwitting but pre-eminent member of the supporting cast.").

³⁰ See Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* 5 (Verso 1983) (claiming nationality is an empty concept).

such as terrorist organizations),³¹ manage environmental catastrophe such as global warming, remedy astronomically large economic inequities between individuals and societies, constrain the devastating scramble to exploit the Earth's dwindling natural resources, or address crises such as the global AIDS epidemic.³²

Snapshots of world development present a bleak picture. According to the United Nations Development Programme, an estimated 14,000 people per day become infected with HIV/AIDS, while roughly 30,000 children die each day of preventable diseases.³³ A quarter of the world's population lives in extreme poverty, and the income of the richest 5 percent is 114 times higher than the income of the poorest 5 percent.³⁴ Even in a world of states, 40 percent of the world's babies are born without official nationality,³⁵ and eighty-two out of every thousand children born alive die before turning five.³⁶ A significant percentage of the world's population lives in war zones: during the 1990s, more than a third of the world's countries experienced "serious societal warfare" of one form or another,³⁷ and one study identified thirty-nine cases of genocide since 1955.³⁸

Just as Afghanistan and Iraq are fractured into numerous competing ethnic and religious groups dominated by warlords and other

³¹ See Viet D. Dinh, *Nationalism in the Age of Terror*, 56 Fla L Rev 867, 868 (2004) ("The attacks of September 11, and the composition of its perpetrators, should make one lesson crystal clear: nation-states no longer possess a monopoly on warfare or war-like violence.").

³² See J.M. Spectar, *The Olde Order Crumbleth: HIV-Pestilence as a Security Issue and New Thinking About Core Concepts in International Affairs*, 13 Ind Intl & Comp L Rev 481, 482 (2003) (arguing that the spread of HIV forced international communities to rethink "traditional conceptions of national interest, security, and sovereignty").

³³ United Nations Development Programme, *Human Development Report 2002: Deepening Democracy in a Fragmented World* 13, online at <http://hdr.undp.org/reports/global/2002/en/pdf/chapterone.pdf> (visited Sept 18, 2005).

³⁴ Id.

³⁵ UNICEF, *Birth Registration: Right from the Start*, 9 Innocenti Digest 8 (Mar 2002), online at <http://www.unicef.at/shop/dbdocs/birthreg.pdf> (visited Sept 18, 2005) (describing registration problems as most acute in the poorest states).

³⁶ UNICEF, *State of the World's Children 2004* table 10, online at <http://www.unicef.org/sowc04/files/Table10.pdf> (visited Sept 18, 2005).

³⁷ Monty G. Marshall and Ted Robert Gurr, *Peace and Conflict 2003* 13-14 (Maryland 2003) (noting that, of the states experiencing serious societal warfare, nearly two-thirds experienced armed conflict for at least seven years in the ten-year period). See also Thomas Hylland Eriksen, *Ethnicity and Nationalism: Anthropological Perspectives 2* (Pluto 1993) (noting that there were thirty-seven armed conflicts in 1991, most of which involved internal strife between ethnic groups).

³⁸ See Jack A. Goldstone and Jay Ulfelder, *How to Construct Stable Democracies*, 28 Wash Q 9, 11 (Winter 2004) (defining genocides as occurring when governing elites or, in civil war, contending authorities "promoted, executed, granted, or implied consent to sustained policies that intended to destroy, in whole or in part, a communal, political, or politicized ethnic group").

regional powerbrokers,³⁹ the international order still better resembles a Hobbesian scramble for survival than a coherent system of governance. If there is some sense in which all the world's people constitute a society (and why not insist on that, in this era of globalization and human rights?), it is hard not to conclude that the international community is simply a failed state on a global scale.

II. BUT THAT'S SILLY

The obvious rejoinder to this claim is that it makes no sense at all to think of the international order as a "failed state," since the international order has never been—and has never truly sought to be—a successful state.⁴⁰ If we see chaos, poverty, disease, environmental depredation, and enormous unchecked violence around the globe today, this can be attributed to many causes (from original sin to collective action problems, take your pick). But it can hardly be attributed to some sort of state failure—to the collapse of once functioning global governance institutions—since such institutions never existed. By definition, the international order cannot be considered a failed state on a global scale, because there never existed a global state that could fall apart.

But is it so silly to analogize the international order to a failed state? True, there never was a global state that existed, so it seems odd to speak of the international community as a failed state. But much the same could be said of many failed states on the national level. That is, most so-called failed states were never really states in the first place, at least not in anything more than a technical sense. Afghanistan was never a functioning modern state;⁴¹ neither was Congo,⁴² nor Sierra

³⁹ See James C. O'Brien, *Lawyers, Guns, and Money: Warlords and Reconstruction After Iraq*, 11 UC Davis J Intl L & Policy 99, 101–03 (2004) (criticizing the United States for allowing warlords to proliferate in Afghanistan and Iraq since 2001); J. Alexander Thier, Note, *Afghanistan: Minority Rights and Autonomy in a Multi-Ethnic Failed State*, 35 Stan J Intl L 351, 353 (1999) (describing the post-Soviet dissolution of Afghanistan into warring factions).

⁴⁰ Despite much rhetoric in the interwar and immediate post-World War II period, the politicians who framed the League of Nations and the United Nations stopped very far short of meaningful moves towards world government.

⁴¹ See Michael P. Scharf and Paul R. Williams, *Report of the Committee of Experts on Nation Rebuilding in Afghanistan*, 36 New Eng L Rev 709, 711 (2002):

As a result of the ethnic make-up of Afghanistan, its colonial past, the Soviet occupation, and the evolution of traditional modes of governance, most governance in Afghanistan occurs at the local level, where ethnic and tribal political structures dominate the political bargaining process. In fact, in some areas of Afghanistan central authorities have never exercised any effective control.

⁴² See generally Robert B. Edgerton, *The Troubled Heart of Africa: A History of the Congo* (St. Martin's 2002) (tracing the history of Congo and observing that the region contained more stable kingdoms and towns with little crime prior to its exploration for trade by the Arabs and Europeans); Adam Hochschild, *King Leopold's Ghost* (Mariner 1999).

Leone,⁴³ nor Somalia,⁴⁴ nor most of the dozens of states that have been characterized in the past decade as failed or failing. With their boundaries often drawn by colonial and imperial powers, these faux states made for tidy maps and possessed seats at the United Nations and had international juridical personalities, but they rarely possessed the attributes of robust states in anything other than a purely formal legal sense.⁴⁵

From their inception, such states rarely exercised anything approaching a monopoly on violence within their territories; to a significant extent, their borders were unmanageably porous, and the reach of government authority often barely extended beyond their capital cities and a handful of other urban centers. Either through incapacity, lack of resources, massive corruption, or all three, most provided basic services (schools, roads, courts, police, and postal service) only sporadically and poorly, and left their populations to fend more or less for themselves. At best, these “states” were, for a time, fragile facsimiles of the nation-states that appeared to thrive in Western Europe and parts of the Americas.⁴⁶ During the Cold War, these faux states were propped up by the competing superpowers; with the end of the Cold War, many were revealed as the houses of cards they had been all along.⁴⁷ If the “descent” into failed state status requires some prior period as a functioning state, places such as Sierra Leone and Af-

⁴³ See generally Earl Conteh-Morgan and Mac Dixon-Fyle, *Sierra Leone at the End of the Twentieth Century: History, Politics, and Society* (Peter Lang 1999) (linking the disastrous outcome of Sierra Leone’s brief democratic experience to its past history); Mariane C. Ferme, *The Underneath of Things: Violence, History and the Everyday in Sierra Leone* (California 2001).

⁴⁴ See Peter D. Little, *Somalia: Economy Without State 2* (Indiana 2003) (arguing that UN and U.S. policy toward Somalia in the 1990s failed in part because the UN and the United States treated Somalia—a nonstate with only local politics—as a state with a central government).

⁴⁵ There is an enormous theoretical literature on statehood and sovereignty, and I will not attempt to summarize that literature here. See, for example, Stephen D. Krasner, *The Hole in the Whole: Sovereignty, Shared Sovereignty, and International Law*, 25 Mich J Intl L 1075, 1077–78 (2004) (contending that no unified theory of sovereignty adequately accounts for de facto sovereignty).

⁴⁶ See, for example, Scharf, 31 Denver J Intl L & Policy at 375–76 (cited in note 22) (“Contrary to the conventional view, since the dawn of the state system 355 years ago with the Peace of Westphalia, very few states have actually possessed full juridical autonomy. Rather, most states in the world might more accurately be characterized as quasi-sovereigns.”).

⁴⁷ See Adrian Hamilton, *The Idea of the Nation State Is Fatally Flawed*, Independent 35 (Aug 18, 2004) (“[T]he deeper truth is that most of these states are failing because they were western constructs in the first place.”). See also Helen Stacy, *Relational Sovereignty*, 55 Stan L Rev 2029, 2038 (2003) (“The end of the Cold War not only created more than twenty new states, but also reopened the debate about the meaning of . . . the limits of sovereignty.”) (internal quotation marks omitted).

ghanistan can hardly be considered failed states. They never really were states to begin with.⁴⁸

III. THE STATE AS NEWCOMER

We can go further, and say that there is every reason to consider the apparent permanence and ubiquity of the nation-state to be a mirage. Although both international law and popular understandings of international affairs take it for granted that nation-states are (and ought to be, and must be) the building blocks of world order, viewed historically the state (and particularly the nation-state) is a transient and contingent form of social organization.⁴⁹ After all, the history of the modern state is a short one—and not a particularly happy one. Since prehistory, groups of human beings have found a very wide range of ways to organize themselves into societies.⁵⁰ The world has seen tribes, sects, feudal kingdoms, city-states, and empires, among other modes of social organization. The idea of the territorial state as the locus of authority, within a system of formally equivalent similar states, is of recent vintage.

Although one can point to many precursors of the modern idea of statehood, it was not until 1648, when the Peace of Westphalia ended the Thirty Years War, that the modern international system of sovereign states began to develop.⁵¹ Even after this symbolic starting point, it took centuries of conquest and many more wars before anything truly resembling today's state system took shape. In the three centuries following the Peace of Westphalia, Europe's numerous squab-

⁴⁸ See Hamilton, *The Idea of the Nation State*, Independent at 35 (cited in note 47) (stating that to describe these states as failing is "just whistling in the wind").

⁴⁹ I make no claim to originality here. A vast and influential body of literature has documented this. See, for example, Peter van Ham, *Identity Beyond the State: The Case of the European Union*, Copenhagen Peace Research Institute (June 2000), online at <http://www.ciaonet.org/wps/vap01> (visited Sept 18, 2005) ("[I]t does seem rather brazen to claim the singularity of the nation-state and its indispensableness for all meaningful political and cultural development in the light of the nation-state's rather short historical life."); William H. McNeill, *A History of Human Community, Prehistory to Present* (Prentice-Hall 5th ed 1997) (describing poly-ethnicity as the historical norm); E.J. Hobsbawm, *Nations and Nationalism Since 1780: Programme, Myth, Reality* 9–10 (Cambridge 1990) ("I do not regard 'nation' as a primary nor as an unchanging social entity. It belongs exclusively to a particular, and historically recent, period. . . . [N]ationalism comes before nations."); Hans Kohn, *The Idea of Nationalism: A Study in Its Origins and Background* (MacMillan 1944).

⁵⁰ See Charles Tilly, *Epilogue: Now Where?*, in George Steinmetz, ed., *State/Culture: State Formation After the Cultural Turn* 407, 408 (Cornell 1999). See also Ernest Gellner, *Nations and Nationalism* 137 (Cornell 1983).

⁵¹ See Leo Gross, *The Peace of Westphalia, 1648–1948*, 42 Am J Intl L 20, 21–24 (1948); Diane F. Orentlicher, *Separation Anxiety: International Responses to Ethno-Separatist Claims*, 23 Yale J Intl L 1, 9 (1998). But see Stephen D. Krasner, *Sovereignty: Organized Hypocrisy* 20 (Princeton 1999) (contending that "[t]he norm of nonintervention in internal affairs had virtually nothing to do with the Peace of Westphalia").

bling principalities (which were linked by complex ties of language, ethnicity, religion, and kinship networks among the aristocracy, and cut through by similar cleavages) underwent a process of consolidation.⁵² State consolidation was rarely peaceful: consider the three wars of the German unification,⁵³ or the bloody excesses of the Italian unification.⁵⁴ (It was the carnage of the battle of Solferino that inspired Swiss philanthropist Henri Dunant to form the International Committee for the Red Cross, and led indirectly to the emergence of the modern law of armed conflict.⁵⁵)

And the emergence of nation-states in particular was far from a simple or natural development.⁵⁶ National identity for the peoples of Europe had to be created, and it was only the nineteenth century that saw this process accelerate.⁵⁷ Monuments were built and national anthems composed; regional dialects and various particularisms were stamped out by central authorities, often ruthlessly.⁵⁸

⁵² See Anderson, *Imagined Communities* at 113 (cited in note 30):

The First World War brought the age of high dynasticism to an end. By 1922, Habsburgs, Hohenzollerns, Romanovs and Ottomans were gone. In place of the Congress of Berlin came the League of Nations, from which non-Europeans were not excluded. From this time on, the legitimate international norm was the nation-state, so that in the League even the surviving imperial powers came dressed in national costume rather than imperial uniform. After the cataclysm of World War II the nation-state tide reached full flood. By the mid-1970s even the Portuguese Empire had become a thing of the past.

⁵³ See Lewis L. Snyder, *Varieties of Nationalism: A Comparative Study* 90–94 (Dryden 1976) (describing Bismarck's use of nationalism as propaganda).

⁵⁴ See *id.* at 94–99 (describing how petty princes used nationalism to form a united front despite the fragmentation of the Italian states).

⁵⁵ See Francois Bugnion, *The International Committee of the Red Cross and the Development of International Humanitarian Law*, 5 Chi J Intl L 191, 191 (2004) (“[T]he International Committee of the Red Cross . . . has been the main driving force behind the development of international humanitarian law for 140 years.”); Jeremy Rabkin, *The Politics of the Geneva Conventions: Disturbing Background to the ICC Debate*, 44 Va J Intl L 169, 178 (2003) (noting that the Swiss origins of and headquarters of the Red Cross explain Geneva's pivotal role in modern international diplomacy).

⁵⁶ See generally Alexander Wendt, *Social Theory of International Politics* (Cambridge 1999).

⁵⁷ See Anderson, *Imagined Communities* at 4 (cited in note 30) (“[N]ationality, or, as one might prefer to put it in view of that word's multiple significations, nation-ness, as well as nationalism, are cultural artefacts of a particular kind.”); Ernest Gellner, *Thought and Change* 168 (Chicago 1964) (“Nationalism is not the awakening of nations to self-consciousness: it invents nations where they do not exist.”).

⁵⁸ See, for example, Eriksen, *Ethnicity and Nationalism* at 104 (cited in note 37) (noting that industrialization and mass education turned “peasants into Frenchmen”); Eugene Weber, *Peasants into Frenchmen: The Modernization of Rural France, 1870–1914* 73 (Stanford 1976) (noting that it was not until World War I that France was able to achieve a common language). A similar narrative can be seen outside of Europe as well. See, for example, Christopher Saunders, *The Making of the South African Past: Major Historians on Race and Class* (Barnes & Noble 1988) (describing the approaches of various historians in analyzing the role of the black majority in the history of South Africa); Leonard Thompson, *The Political Mythology of Apartheid* 230–36 (Yale 1985) (showing how the minority in South Africa gained power over the majority by creat-

Depending on one's theoretical vantage point, one can see the ferocious militarism that characterized Europe until the post-World War II period as a direct result of state expansion and nationalism—or, alternatively, in line with Charles Tilly's famous argument, one can see state formation and nationalism as incidental byproducts of militarism, as warlords required ever more elaborate infrastructural support to fund and sustain their armies.⁵⁹ Either way, few scholars would dispute that the history of the state as the dominant form of social organization is a history dripping with blood.⁶⁰

This has been as true in the rest of the world as in Europe. Although empires and kingdoms have long existed around the globe, the modern state largely spread outward from Europe, a byproduct of imperialism and colonial expansion. In the Americas, indigenous populations were small and lacked sophisticated military technologies, and European colonists soon killed or marginalized them; then, drawing on their own political traditions, the colonists quickly replicated the state structures of Europe. Soon enough, the colonists insisted on independence from their parent states, and new states were born, often through violent rebellion.

Meanwhile, in Africa, Asia, and South Asia, where they found indigenous populations more formidable, the European powers (often loosely represented by commercial enterprises acting under state charters, such as the British East India Company) first established nominally independent puppet-states, which they often molded out of far more varied local forms of social organization, such as tribe and city.

ing the myth of the Afrikaner nationalist movement). See also Paul W. Kahn, *The Question of Sovereignty*, 40 *Stan J Intl L* 259, 268–69 (2004):

The story of modern European political evolution is in substantial part a story of the growing autonomy of the sovereign from the Church, but it is wrong to think of that simply as a secularization of the sovereign. Rather, it was a process in which ultimate meanings shifted from the Church to the state—a process of sacralization of the state rather than secularization of authority.

⁵⁹ See Charles Tilly, *War Making and State Making as Organized Crime*, in Peter B. Evans, Dietrich Rueschemeyer, and Theda Skocpol, eds, *Bringing the State Back In* 169 (Cambridge 1985) (discussing the place of organized means of violence in the growth and change of government in the nation-states of Western Europe).

⁶⁰ See Kahn, 40 *Stan J Intl L* at 263 (cited in note 58):

The sovereign state emerges out of a bloody past. States are the results of wars fought and won, rather than of some sort of natural truth about the community. Sovereignty is a club of victors. Why is there no sovereignty for Quebec, Catalonia, Scotland, Burgundy, or Provence? Why is there sovereignty for the Democratic Republic of the Congo, the Islamic Republic of Pakistan, and a single Federal Republic of Germany? Each question is answered by a narrative of battles lost or of power successfully asserted.

See also van Ham, *Identity Beyond the State* (cited in note 49) (arguing that after World War II “the nation-state was the main source of hatred and war among European peoples that had to be overcome”).

Quickly enough, however, most abandoned the charade of local rule in favor of straightforward colonial regimes. Ultimately, Africa's and Asia's most portable natural resources were depleted, and two world wars made maintaining colonies an expensive luxury.⁶¹

At the same time (and not coincidentally), emerging global norms of self-determination, nondiscrimination, and human rights made colonial regimes more difficult to justify.⁶² As indigenous elites began to demand independence themselves, often through violence here as well, still more states were formed. Their governance structures generally mirrored the internal governance structures bequeathed them by Europe's colonial powers, and their borders notoriously reflected happenstance and inter-European conflicts and compromises rather than any precolonial political or social units.⁶³

IV. THE STATE AS FAILURE

The state as we know it today is thus of recent origin. As one commentator notes, the modern state system has not lasted even as

⁶¹ See generally Remo Guidieri, Francesco Pellizzi, and Stanley J. Tambiah, eds, *Ethnicities and Nations: Processes of Interethnic Relations in Latin America, Southeast Asia, and the Pacific* (Rothko Chapel 1988) (studying closely the last phases of the colonial era and the early decades of independence in the third world, when competition between ethnic groups intensified).

⁶² See Scharf, 31 *Denver J Intl L & Policy* at 378–79 (cited in note 22):

The principle of self-determination is included in Articles 1, 55, and 73 of the United Nations Charter. . . . The principle of self-determination was further codified in the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights, and in the International Covenant on Economic, Social, and Cultural Rights, which together are considered to constitute the international "Bill of Rights." The vast majority of countries of the world are party to the two Covenants, which constitute binding treaty law.

See also Thomas D. Grant, *Between Diversity and Disorder: A Review of Jorri C. Duursma, Fragmentation and the International Relations of Micro-States: Self-Determination and Statehood*, 12 *Am U J Intl L & Policy* 629, 632 (1997) (critiquing the theory that small countries allow the principle of self-determination to flourish without disrupting the organizing structure necessary for international stability); Gerry J. Simpson, *The Diffusion of Sovereignty: Self-Determination in the Post-Colonial Age*, 32 *Stan J Intl L* 255, 264 (1996) ("The U.N. Charter [art 1, sec 2] initiated the climb in the prestige of self-determination by casting the principle as one of the organization's major purposes.").

⁶³ See Orentlicher, 23 *Yale J Intl L* at 15 (cited in note 51) ("The postcolonial experience of African states in particular is often cited as empirical support for the ideal of nation-states. In this view, the enduring weakness of some African states is due in large measure to the arbitrariness of the postcolonial states' borders."). See also Antony Anghie, *Finding the Peripheries: Sovereignty and Colonialism in Nineteenth-Century International Law*, 40 *Harv Intl L J* 1, 22–25 (1999) (arguing that the universalization of the European experience has suppressed other histories); Makau wa Mutua, *Putting Humpty Dumpty Together Again: The Dilemmas of the Post-Colonial African State*, 21 *Brooklyn J Intl L* 505, 526–28 (1995) (arguing that the strategy of imposing post-colonial states in Africa has been harmful and that instead sovereignty should be returned to the smaller pre-colonial communities); Makau wa Mutua, *Why Redraw the Map of Africa: A Moral and Legal Inquiry*, 16 *Mich J Intl L* 1113, 1135–37 (1995) (arguing that the imposition of nation-states on Africa permanently disfigured it).

long as the Roman Empire,⁶⁴ and there is little that is “natural” or inevitable about it; states are the product of both a unique history and of multiple conscious choices.⁶⁵ For that matter, there is no reason to view the state as a particularly successful or benign mode of social organization. I have already noted that even in Europe, the birthplace of the modern state, the history of the state is a history of repression and war. As states expanded they consumed or trampled on other, weaker social systems; as they vied for dominance they sent millions to be slaughtered on battlefield after battlefield; and as they sought to create unified national cultures they cannibalized their own citizens, a process that reached its terrible apotheosis in the Nazi state’s genocidal policies.

This is a story familiar to international lawyers, and a happy ending is usually proffered: the UN Charter, the emergence of human rights law, and various other sovereignty-limiting doctrines.⁶⁶ But these new norms and institutions have not ended state predation. Even in Europe, the birthplace of the modern state, “ethnic cleansing” in the former Yugoslavia is only the most recent chapter in the story of state predation. The best that can be said of the state in Europe and the Americas may be that it proved a form of social organization well suited to the era of industrialization,⁶⁷ and that its excesses have to some extent been tamed by the UN Charter system on the outside and by robust checks and balances on the inside.

The emergence of the welfare state (loosely understood) is surely an improvement over the predatory state, but it is not clear how much

⁶⁴ See van Ham, *Identity Beyond the State* (cited in note 49).

⁶⁵ See Gellner, *Nations and Nationalism* at 6 (cited in note 50) (“Having a nation is not an inherent attribute of humanity, but it has now come to appear as such. In fact nations, like states, are a contingency, not a universal necessity.”).

⁶⁶ See Jack Goldsmith, *Sovereignty, International Relations Theory, and International Law*, 52 *Stan L Rev* 959, 960–61 (2000):

Lawyers tend to think (or assume) that, as a rule of international law, sovereignty exercises an influence on national behavior that cannot be captured in instrumental terms. International lawyers are optimistic about the independent efficacy of international law because they give pride of place to the rhetoric of sovereignty in international affairs, and because their empirical investigations tend to focus on behaviors consistent with (rather than contrary to) sovereignty norms.

⁶⁷ See Gellner, *Nations and Nationalism* at 125 (cited in note 50):

Nationalism—the principle of homogenous cultural units as the foundations of political life, and of the obligatory cultural units of rules and ruled—is indeed inscribed neither in the nature of things, nor in the hearts of men, nor in the pre-conditions of social life in general, and the contention that it *is* so inscribed is a falsehood which nationalist doctrine has succeeded in presenting as self-evident. But nationalism as a phenomenon, not as a doctrine presented by nationalists, is inherent in a certain set of social conditions; and those conditions, it so happens, are the conditions of our time.

one should make of this.⁶⁸ It is a sort of teleological social Darwinism of the most dangerous sort to assume that because the state has emerged as the dominant mode of social organization, it must therefore be inevitable—a “better” and more advanced way to structure societies.

Outside of Europe, the state has hardly been kinder or gentler, and it has certainly been less “successful” as state success is traditionally evaluated. The successful nation-states of Europe spawned imitator states around the globe, and in a few places (including, of course, the United States), this model “took.” In many places, it did not. In most places (much of Africa, much of central and south Asia, parts of the Americas), the state was never more than a semifictional overlay of institutions that masked the continuance or development of other more protean forms of social organization. When the Cold War ended, some of these “states” simply reverted, more or less messily and painfully and visibly, into whatever it was that they had always been; in others, new and often even more lethal modes of social organization emerged.⁶⁹ To a significant extent, the state in the developing world has offered its citizens all the violence that accompanied European state formation and few of the corresponding benefits.⁷⁰ Weak, failing, and failed states are not the exception in many parts of the world. They are the norm, and have been since their inception.⁷¹

⁶⁸ Particularly insofar as many scholars see the emergence of the welfare state as a direct outgrowth of state militarism. See Tilly, *Now Where?* at 417 (cited in note 50).

⁶⁹ See, for example, Orentlicher, 23 Yale J Intl L at 17 (cited in note 51):

[I]ntergroup conflict in postcolonial Africa, as in other multiethnic countries beset by conflict, is usually proximately caused by the actions of political leaders who have deliberately fostered and exacerbated intergroup tensions. Indeed, to the extent that blame for “tribalism” in Africa can be laid at the doorstep of former colonial powers, their fault may have less to do with their legacy of “artificial borders” that cage into shared citizenship inherently unsuitable compatriots than with patterns of colonial administration that heightened Africans’ awareness of their ethnic identity and fostered interethnic rivalry.

⁷⁰ See David Welsh, *Domestic Politics and Ethnic Conflict*, in Michael E. Brown, ed, *Ethnic Conflict and International Security* 43, 44 (Princeton 1993):

A crucial difference between the nation-building of Western Europe and that of Africa and much of Asia was that the processes in Europe occurred well before the rise of popular demands for democratic rights: Nations already existed as relatively cohesive citizenries. In postcolonial Asia and Africa, on the other hand, nation-building was the first task on the agenda of newly independent colonies, which were suddenly endowed with the full panoply of democratic institutions. . . . [D]emocratization and nation-building were to prove antithetical in circumstances of ethnic diversity.

⁷¹ See, for example, African Studies Center Report, *Failed and Collapsed States in the International System* at 5 (cited in note 5) (“[Failed states are not a] temporary dysfunction [but a] structural trait. . . . [T]he state building process that was at the heart of the Westphalia legacy currently faces radical counter-dynamics of state break-up and state failure.”).

V. SO WHAT?

If this is an accurate account (and the historical and empirical evidence strongly suggests that it is), then the modern state may be a bit of ephemera, a fleeting and historically contingent social experiment that has not worked for long (or at all) in most parts of the globe. And if this is an accurate account, it raises two interrelated sets of initial questions.

A. Is the State Useful?

The first set of questions revolves around the utility, if any, of the state as a form of social organization. What, if anything, is the value of treating the world's many unstable and strife-ridden societies as "failed states," if in fact they never possessed most of the attributes of functioning states in the first place? If the world's trouble spots are "failed states," it follows, logically, that one should try to fix them by rebuilding functioning state institutions. If the world's trouble spots never *were* states, though, it is not wholly obvious that the cure for their problems is to try to make them look as much as possible like states.

Of course, it may be that there is independent value in trying to turn troubled societies into functioning states, regardless of their prior history—but if this is so, it must be because we believe the state to be the only truly effective means of organizing large groups of people in the modern world.⁷² As I have already suggested, the state's history is not cause for great confidence. But perhaps one could say of the state what is often said of democracy: that it's the worst system, except for all the others.⁷³

⁷² See, for example, Georg Wilhelm Friedrich Hegel, *The Philosophy Of History* 39 (Dover 1956) (J. Sibree, trans) ("The State is the Divine Idea as it exists on Earth."). To a significant extent, most normative defenses of the current international legal order rest on at least a weak version of this assumption, whether or not it is consciously articulated, and so do most current proposals for reforming international approaches to the problem of failed states.

⁷³ In their influential 1992 article, for instance, Gerald Helman and Steven Ratner proposed some variety of "conservatorships" for failed states. Helman and Ratner, 89 *Foreign Policy* at 12 (cited in note 2). Just as a court-appointed conservator might manage the affairs of an incapacitated individual within a domestic legal system, the international legal system might permit some agency or state to manage the affairs of a failed state for the benefit of its populace. Helman and Ratner noted that the idea of conservatorships has a long history. *Id.* at 6. The League of Nations created a "mandate system" after World War I, which placed Germany and Turkey's former possessions under foreign supervision, overseen by the League's Permanent Mandates Commission. After World War II, the mandate system was replaced by the UN Charter's trusteeship provisions, and the remaining mandate systems became UN trusteeships. When the last of the trusteeship territories, Palau, became independent in 1994, the UN Trusteeship Council suspended operations. Although the trusteeship provisions of the UN Charter do not permit the creation of new trusteeships, Helman and Ratner suggested revising the UN Charter

B. Why Not a World State?

If the world's trouble spots never were functioning states, we might ask a second set of questions relating to the international order. Do we learn anything useful if we think about the international order as a failed state on a global scale? The fact that most "failed states" were never truly successful states does not prevent most of us from measuring them against the standards of successful states, as typified by the United States or the prosperous democracies of Western Europe. Is it inevitably frivolous then to measure the international order against the same yardstick, and strive to make it more "state-like"?

Although the notion of "world government" is apt to generate—at best—nostalgic chuckles today, we might recall the not too distant era in which the vision of world government, though utopian, was seen as a normatively attractive vision, and serious political figures (including Roosevelt and Churchill) spoke of it as something both desir-

to permit the establishment of new trusteeships in cases of state failure. *Id.* at 17. Helman and Ratner took it for granted, however, that state sovereignty during trusteeship periods would only be in temporary abeyance; they emphasized both that "no state should be the unwilling object of a U.N. trusteeship," *id.* at 16, and that "the purpose of conservatorship is to enable the state to resume responsibility for itself." *Id.* at 17. Thus, "conservatorships should not devolve into long-term custody." *Id.* at 19. In other words, Helman and Ratner take trusteeship as a temporary condition, designed to shepherd a state from "failure" back to "success."

In the thirteen years since the Helman and Ratner article was published, followers of their general approach have tended to share the assumption that "successful" statehood is the desired outcome in "failed" states. Henry Perritt, for instance, recently proposed revising the UN trusteeship system in the wake of recent events in Kosovo, Afghanistan, Iraq, and elsewhere. See generally Perritt, 8 *UCLA J Intl L & Foreign Aff* 385 (cited in note 1). Perritt, like Helman and Ratner, emphasized that the "legitimacy of a political trusteeship depends on it being temporary and aimed at developing the capacity for independence." *Id.* at 467. Perritt situated his proposal within the "strong tradition within international political and legal history of 'intermediate' or 'transitional' sovereignty," which sees sovereignty as "something that can be grown or expanded and achieved." *Id.* at 434.

The tradition to which he refers is best exemplified in the legal literature by the work of Scharf, Williams, Hooper, and their occasional collaborators. See note 22. Thus, Williams and Francesca Pecci propose that instead of seeing independent sovereignty as an either/or proposition in the short term, the international community should develop solutions to sovereignty-based conflicts that entail "the conditional and progressive devolution of sovereign powers and authority from a state to a substate entity." Paul R. Williams and Francesca Jannotti Pecci, *Earned Sovereignty: Bridging the Gap Between Sovereignty and Self-Determination*, 40 *Stan J Intl L* 347, 350 (2004). They note that we already see "ad hoc reliance on the approach of earned sovereignty by mediators and parties to conflict," but that "there is scant scholarly commentary as to the precise nature of the approach." *Id.* at 349. But although they emphasize the importance of considering models of "shared sovereignty," "phased sovereignty," "conditional sovereignty" and "constrained sovereignty," they nonetheless assume that less-than-total sovereignty is an inherently temporary state of affairs. The resolution of "final status" is presumed to be necessary, and the presumption is that all entities will either ultimately become fully sovereign or will accept permanent status as a formal subpart of some other fully sovereign entity, though perhaps with some substantial internal autonomy with regard to local affairs. *Id.* at 385–86.

able and eventually attainable.⁷⁴ If the state, at least in its platonic ideal form, is the optimal form of social organization, then it is logical to want international structures to mirror the structures found in stable and prosperous states. If the state is the best mode of social organization, it is logical to seek an international order that provides for all humans what a successful nation-state can theoretically provide for its own citizens.

While questions can always be raised about the most efficient level on which various governance decisions should be made,⁷⁵ there is no defensible reason for wishing to preserve the socially constructed difference that is used to justify nation-states. The largest modern state today (China) has a population that approaches the size of the entire world's population in 1900.⁷⁶ If a modern state can be as large as China (1.3 billion) or India (1.1 billion) and not be automatically suspect because of its scale, why should we not want a global state in which we can all participate and from which we can all benefit?⁷⁷ The current system of states is arbitrary and irrational;⁷⁸ a world where the Solomon Islands and China are formal equals seems hardly worth preserving—especially when we know that in practice states are very far from being equals, and that the state-centered international legal order serves mainly to preserve the power and privilege of those in successful states at the expense of everyone else.⁷⁹

⁷⁴ See, for example, Alexander Wendt, *Why a World State Is Inevitable*, 9 Eur J Intl Rel 491, 517 (2003) (calling “all stages short of the world state . . . unstable” and postulating the inevitability of a world government); Snyder, *Varieties of Nationalism* at 251 (cited in note 53) (attributing calls for world government to Plato, Grotius, and Bertrand Russell).

⁷⁵ See John H. Jackson, *Sovereignty-Modern: A New Approach to an Outdated Concept*, 97 Am J Intl L 782, 801 (2003) (arguing that sovereignty is better understood as a set of questions about the appropriate level of power at which particular decisions should be made).

⁷⁶ The world's population in 1900 was 1.6 billion. United Nations, 1 *The Determinants and Consequences of Population Trends* 21 table II.4 (United Nations 1973). The CIA estimates the current population of China at 1.3 billion, India at 1.1 billion, and the United States at 295 million. CIA, *World Factbook: Rank Order—Population*, online at <http://www.cia.gov/cia/publications/factbook/rankorder/2119rank.html> (visited Sept 18, 2005).

⁷⁷ Anne-Marie Slaughter argues that “world government is both infeasible and undesirable. The size and scope of such a government presents an unavoidable and dangerous threat to individual liberty.” Anne-Marie Slaughter, *A New World Order* 8 (Princeton 2004). While I tend to think that the issue is moot, since I see no particular likelihood of a world government emerging regardless of any effort to promote one, it's worth noting that the constitutional framers would presumably have said the same of 300 million people, as the United States now is.

⁷⁸ See John Meyer, *The Changing Cultural Content of the Nation-State: A World Society Perspective*, in Steinmetz, ed., *State/Culture* 123, 126 (cited in note 50) (“All sorts of unlikely populations and areas are now at least nominally organized as nation-states.”).

⁷⁹ See generally Judith Goldstein, et al, *Introduction: Legalization and World Politics*, in Judith Goldstein, et al, eds, *Legalization and World Politics* 1, 7 (MIT 2001) (explaining legalization as a set of rules that emanate from dominant powers and represent their interests). But see Jean L. Cohen, *Whose Sovereignty? Empire Versus International Law*, 18 Ethics & Intl Aff 1, 4 (2004), online at http://www.carnegiecouncil.org/media/5052_Cohenforweb.pdf (visited Sept 18,

If, despite its flaws, the state is the best form of social organization we've got, it is also logical to sympathize with the transparently normative goals of traditional international law scholarship,⁸⁰ which tended to assume that more international law is always better than less, and that international structures capable of limiting and transcending state power (through coercion if necessary) are generally good.⁸¹ Traditional international law scholarship thus was dominated by questions about the degree to which international legal structures were or were not like the structures of effective states on the domestic level, often taking the form of questions about whether international law is or could become "hard law," with adequate coercive mechanisms to induce state compliance.⁸²

VI. ALTERNATIVES TO THE STATE SYSTEM

Whether the state is the best deal humans can come up with is a question that is both empirical and theoretical. Increasingly, it is a question that has attracted serious and renewed scholarly attention, fueled by the rapid pace of globalization of the last couple of decades.⁸³ The emerging literature is already too vast to summarize here, but it is worth repeating something that has become, perhaps, so much of a truism that it often obscures analysis: globalization has indeed raised new challenges to the viability of the state.⁸⁴ The transborder

2005) (arguing that a political realist view of international law as only serving the powerful ignores the fact that today there is a great deal of effective international law).

⁸⁰ See Anne-Marie Slaughter Burley, *International Law and International Relations Theory: A Dual Agenda*, 87 Am J Intl L 205, 206 (1993) (describing a theory that emphasizes the role of international law in shaping state expectations and behavior).

⁸¹ See Steven R. Ratner, *International Law: The Trials of Global Norms*, 110 Foreign Policy 65, 78 (Spring 1998) ("Most international lawyers . . . believe that most issues of transnational concern are best addressed through legal frameworks that render the behavior of global actors more predictable and induce compliance from potential or actual violators.").

⁸² See Slaughter Burley, 87 Am J Intl L at 223 (cited in note 80). See also Ratner, 110 Foreign Policy at 67 (cited in note 81) (discussing a trend in the rise of "soft law" over formal treaties).

⁸³ See, for example, Slaughter, *A New World Order* (cited in note 77); Saskia Sassen, *The Participation of States and Citizens in Global Governance*, 10 Ind J Global Legal Stud 5, 6 (2003) (arguing that the current formation of new authority involves denationalization of the state); Roy Rosenzweig and David Thelen, *The Presence of the Past: Popular Uses of History in American Life* 203 (Columbia 1998) ("The nation-state still has policies and institutions, but it is by no means clear that these provide the most necessary, desirable, creative, or responsible arenas in which people can control their lives or fulfill a civic heritage."); Kenichi Ohmae, *The End of the Nation State: The Rise of Regional Economies* 79 (Free Press 1996) ("[T]he glue holding traditional nation-states together, at least in economic terms, has begun to dissolve.").

⁸⁴ See, for example, Alice Teichova and Herbert Matis, *Introduction*, in Alice Teichova and Herbert Matis, eds, *Nation, State, and the Economy in History* 1, 7 (Cambridge 2003) ("The nation-state is a historical phenomenon, and as such liable to 'expiry' fostered by the globalisation process."); Stacy, 55 Stan L Rev at 2043 (cited in note 47):

flow of ideas, images, technologies, people, drugs, disease, money, weapons, pollution, and so on makes irrelevant many of the state's traditional capacities; no state today can fully control its borders, run its economy autonomously, or fully shield its citizens from "outside" threats.⁸⁵ Regardless of the state's past utility, the processes of globalization raise serious questions about the state's future utility, at least as the state is currently understood.⁸⁶

The discourse about globalization and international law still tends to take the state as a given, however. Thus, the conventional narrative animating much international legal scholarship is that the (recent) forces of globalization are challenging the (age-old) centrality of sovereign states as the sole players on the global stage.⁸⁷ This Article has suggested, however, that the sovereign state⁸⁸ was never as static, un-

What seems to be clear, irrespective of the wide variety of beliefs about globalization as a force for good or evil, is that globalization represents a revolution in historical circumstances; a historical moment equal to the Peace of Westphalia and the creation of scores of nation states in the postcolonial moment.

⁸⁵ See, for example, Giddens, *Runaway World* (cited in note 28) (observing that the modern world has "new kinds of unpredictability, new kinds of risk, new kinds of uncertainty"); Held, *Violence, Law, and Justice* (cited in note 18) ("Changes in the law of war, human rights law and in other legal domains have placed individuals, governments and non-governmental organizations under new systems of legal regulation—regulation which, in principle, recasts the legal significance of state boundaries."). See also A.T. Kearney, *Measuring Globalization: Who's Up, Who's Down?*, 134 *Foreign Policy* 60 (Jan–Feb 2003).

⁸⁶ See Stacy, 55 *Stan L Rev* at 2030 (cited in note 47) ("Globalization provides the conditions to constitute a third revolution in sovereignty; it is an opportunity to make a choice between a definition of sovereignty as yet stronger declarations of borders and difference, or something crucially different."). See also, for example, Slaughter, *A New World Order* at 12 (cited in note 77) (describing the major shift "from the unitary state to the disaggregated state"); Sassen, 10 *Ind J Global Legal Stud* at 7 (cited in note 83) (arguing that we are now seeing "a type of authority and state practice that entails a partial denationalizing of what historically had been construed as national"); Ohmae, *The End of the Nation-State* at 140 (cited in note 83) ("In today's borderless world, the lesson for central governments is clear: hold onto economic control too long, and it becomes worthless.").

⁸⁷ See Russell Menyhart, Note, *Changing Identities and Changing Law: Possibilities for a Global Legal Culture*, 10 *Ind J Global Legal Stud* 157, 158 (2003) (arguing that the old nation-state system which was thought to be unchallengeable may well be ill suited for a globalized world). See also Cohen, 18 *Ethics & Intl Aff* at 5–6 (cited in note 79):

There are two versions of the thesis that a decentered cosmopolitan world order has emerged that renders the discourse of sovereignty irrelevant: one focuses on political institutions and the other on legal developments. Both maintain that a transition has occurred away from the international society of states and international law to a decentered form of global governance and cosmopolitan law. And both cite the individualization of international law, the invocation of *jus cogens*, which signals the obligatory character of key human rights norms based on consensus, not state consent, and the emergence of transnational loci of decision and rule making as evidence for this shift.

⁸⁸ In any of its meanings. See Remarks of Ambassador Richard N. Haass, *Sovereignty: Existing Rights, Evolving Responsibilities* 2 (Jan 14, 2003), online at http://www.georgetown.edu/sfs/documents/haass_sovereignty_20030114.pdf (visited Sept 18, 2005):

contested, or central as we tend to assume.⁸⁹ If we look to a counter-narrative, one that emphasizes the degree to which the vision of an international order made up of sovereign states was *always* a mirage, and the degree to which the state itself was rarely benign,⁹⁰ we might equally well ask some rather different questions than those outlined in the previous Part.

A. A Changed International Legal Order?

Here, too, the questions relate both to the nature of the international order and the nature of subinternational social organization. This time, take the international order first, and turn the original question on its head. If we assume that the existence of nation-states reflects historical accident, rather than the inevitable triumph of the most effective form of social organization, why should we care if the international order does not resemble the domestic order in successful nation-states? If the state is in fact a form of social organization that has not worked very well in most places, why would we want to replicate its structures on a global level?

If the state itself is a failure, then instead of trying to make the international order more state-like, and the international legal system more like a domestic legal system (complete, perhaps, with effective executive, legislative, and judicial branches), maybe we should instead be asking questions about whether there is some other form of international ordering that neither relies on fictions of state sovereign equality⁹¹ nor seeks to wholly trump existing subinternational power structures.

Here again, what this might be is beyond this Article's scope. But asking these questions—as some scholars in both international law

Historically, sovereignty has been associated with four main characteristics: First, a sovereign state is one that enjoys supreme political authority and a monopoly over the legitimate use of force within its territory. Second, it is capable of regulating movements across its borders. Third, it can make its foreign policy choices freely. Finally, it is recognized by other governments as an independent entity entitled to freedom from external intervention.

⁸⁹ See notes 49–58 and accompanying text.

⁹⁰ See Louis Henkin, *Human Rights and State "Sovereignty"*, 25 Ga J Intl & Comp L 31, 31 (1996) ("'Sovereignty' is a mistake, . . . a mistake built upon mistakes, which has barnacled an unfortunate mythology."). See also Krasner, 29 Intl Sec at 85 (cited in note 26) (arguing that "conventional rules of sovereignty . . . no longer work, and their inadequacies have had deleterious consequences for the strong as well as the weak"); Goldsmith, 52 Stan L Rev at 960 (cited in note 66) (describing scholars' arguments that "international law principles of sovereignty were never powerful checks on national behavior, and were frequently violated when nations found it in their achievable interests to do so"); Krasner, *Sovereignty* at 7 (cited in note 51) ("Rulers have found that it is in their interest to break the rules.").

⁹¹ See text accompanying notes 78–79.

and international relations are beginning to do⁹²—might make us think rather differently about various much-debated phenomena. For instance, many international law scholars are increasingly interested in various forms of so-called “soft” law that nonetheless seem to induce substantial compliance from both states and nonstate actors.⁹³ Much of the time, the debate about international “soft law” centers around the question of whether or not such soft law will “gel” into “hard law,” being taken up in treaties between states, for instance, and backed by state-created enforcement mechanisms.⁹⁴ But if the state is not a desideratum, perhaps we should not be concerned about whether soft law will gel into hard law. Perhaps we should be willing to embrace a greater pluralism in global legal and institutional structures, rather than measure everything by how closely it approximates “state-like” law.⁹⁵

Similarly, international legal scholars have been preoccupied with the increasing pluralism and diversity of nonstate global actors, from NGOs and corporations to ethnic or religious groups, and the challenges they pose to traditional international law assumptions.⁹⁶ In a state-centered legal order, we lack both legal tools and basic concepts for understanding and responding to powerful nonstate actors. But if we stop fetishizing the state, perhaps many phenomena that now often

⁹² See, for example, Andrew T. Guzman, *Global Governance and the WTO*, 45 Harv Intl L J 303, 305 (2004) (recommending the expansion of the WTO in a way that would increase the level of international cooperation while taming its trade bias); Jackson, 97 Am J Intl L at 785 (cited in note 75) (suggesting that the concept and term “sovereignty” be replaced by a pragmatic and empirically based “sovereignty-modern” approach); Wendt, 9 Eur J Intl Rel at 524–25 (cited in note 74) (predicting that the threat of anarchy from the imbalance of power between “Great Powers” and “Small and Middle Powers” will result in the transfer of state sovereignty to the global level).

⁹³ See, for example, Kenneth W. Abbott and Duncan Snidal, *Hard and Soft Law in International Governance*, in Goldstein, et al, eds, *Legalization and World Politics* 37 (cited in note 79) (arguing that international actors choose softer forms of law when those offer preferable solutions).

⁹⁴ Id at 40.

⁹⁵ See generally the recent work of Michael Scharf, Paul Williams, and James Hooper. See note 22. See also Krasner, 25 Mich J Intl L at 1091 (cited in note 45) (arguing that “shared sovereignty” is a promising alternative to governance assistance, transitional administration, or trusteeship).

⁹⁶ See, for example, Kenneth W. Abbott and Duncan Snidal, *The Concept of Legalization*, in Goldstein, et al, eds, *Legalization and World Politics* 17 (cited in note 79). See also J. Oloka-Onyango, *Heretical Reflections on the Right to Self-Determination: Prospects and Problems for a Democratic Global Future in the New Millennium*, 15 Am U Intl L Rev 151, 192–93 (1999) (arguing that the eclipse of the state has been marked by the concomitant emergence of business as the dominant world force and that this rise in international business has dwarfed traditional sovereignty).

appear to international law scholars as problems—or at least as conundrums—would instead appear as virtues or opportunities.⁹⁷

In the near term, there is very little likelihood that states will disappear as the core entities in the international system.⁹⁸ While globalization has unquestionably altered the nature of state influence, it has not by any means eliminated it. Indeed, it is difficult to speak intelligently about the effects of globalization on “the state,” because states are so different from one another.⁹⁹ Globalization has increased the incentives for interstate and international cooperation in many ways, but it has simultaneously decreased them in other ways by concentrating control of resources and capital in fewer and fewer states. Powerful states, such as the United States, have seen their global influence grow in the era of globalization, and the United States remains the world’s dominant military force.¹⁰⁰

But although states as such are unlikely to wither away any time soon, it is quite likely that *some* states will fade into nonexistence (of which more below), and that the international legal order will come to reflect this. To some extent, through the Security Council, the inequality between states is already a given of international law, and scholars

⁹⁷ A number of authors have already embraced this perspective to some extent. See, for example, Slaughter, *A New World Order* at 161 (cited in note 77) (arguing that interconnected “transgovernmental networks and more traditional international organizations” actually support domestic power structures); Harold Hongju Koh, *The Globalization of Freedom*, 26 Yale J Intl L 305, 306 (2001) (noting with approval the emergence of transnational law that is “fundamentally public in its character”); Allan Gerson, *Peace Building: The Private Sector’s Role*, 95 Am J Intl L 102, 113 (2001) (suggesting a Peace Transitions Council that would allow for partnering arrangements between the private and public sectors to help build and sustain peace); Kal Raustiala, *Sovereignty and Multilateralism*, 1 Chi J Intl L 401, 402 (2000) (querying whether “the development and expansion of multilateral institutions are systematically altering our customary modes of domestic law and politics”); Laura A. Dickinson, *Government for Hire: Privatizing Foreign Affairs and the Problem of Accountability Under International Law*, 47 Wm & Mary L Rev (forthcoming 2005).

⁹⁸ But see Ohmae, *The End of the Nation State* at 8 (cited in note 83) (arguing that a “truly borderless economy and global marketplace” are supplanting traditional notions of borders); Hans J. Morgenthau, *Introduction*, in David Mitrany, *A Working Peace System* 7, 9 (Quadrangle 1966) (“Modern technology has rendered the nation-state obsolete as a principle of political organization.”).

⁹⁹ See Slaughter, *A New World Order* at 8 (cited in note 77) (“[T]he diversity of the peoples to be governed makes it almost impossible to conceive of a global demos.”).

¹⁰⁰ See, for example, Michael A. Newton, *Harmony or Hegemony? The American Military Role in the Pursuit of Justice*, 19 Conn J Intl L 231, 233 (2004) (exploring aspects of U.S. military power including the danger that this military superiority could superficially impose norms on other legal systems); Eve Darian-Smith, *Structural Inequalities in the Global Legal System*, 34 L & Socy Rev 809, 811–12 (2000) (arguing that the West is determining the function and form of global governance); Giddens, *Runaway World* at 8 (cited in note 28) (“The United States . . . has easily become the dominant superpower, and is in a position to shape the world economy to its own interests.”); Pierre Bourdieu, *Rethinking the State: Genesis and Structure of the Bureaucratic Field* (Loïc J.D. Wacquant and Samar Farage, trans), in Steinmetz, ed, *State/Culture* 53, 56–64 (cited in note 50).

can also point to an increasing amount of international law directed at nonstate actors rather than at states. But by and large, the international system continues to maintain the pretense of state equality and state centrality. As a formal matter, today only states make international law (though many international law scholars do their best to insist otherwise). And proposals for UN Charter reform mainly involve increasing the diversity of states represented on the Security Council, rather than seeking to develop new principles that recognize the changing facts on the ground.¹⁰¹

Various different kinds of international order could evolve over the next fifty to one hundred years.¹⁰² Some scholars predict the emergence of a multilayered system, in which states continue to exist more or less in their present form, but increasingly delegate certain kinds of decisions to international bodies (decisions on environmental matters, public health, trade, etc.).¹⁰³ This is already happening to some extent; the trend could continue in a way that radically alters old understandings of state sovereignty.¹⁰⁴ It is not impossible that the international order could become a large scale version of the United States or the EU, with many economic and security issues handled by central bodies. Such international bodies might be themselves premised on state equality, or, like the Security Council, they might be organized in a way that explicitly or implicitly reflects the fact that some states are more equal than others.

Alternatively, several rival regional regimes might emerge, along the lines of the EU. Instead of a world in which some powers dominate, but through nominally universal institutions, regional institutions might emerge in which subregional entities either dissolve as autonomous political units or become merely local in their authority. Or per-

¹⁰¹ See, for example, High-Level Panel on Threats, Challenges, and Change, *A More Secure World: Our Shared Responsibility* 92, online at <http://www.un.org/secureworld/report.pdf> (visited Sept 18, 2005) (recommending the elimination of the UN Trusteeship Council, an ironic twist).

¹⁰² See, for example, Wendt, 9 *Eur J Intl Rel* at 493 (cited in note 74) ("Three end-states suggest themselves—a pacific federation of republican states, a realist world of nation-states in which war remains legitimate, and a world state.").

¹⁰³ See, for example, Guzman, 45 *Harv Intl L J* at 309 (cited in note 92) (discussing expanding the jurisdiction of the WTO); Jackson, 97 *Am J Intl L* at 794–97 (cited in note 75) (analyzing the role of international versus national and subnational institutions in power-allocation decisions).

¹⁰⁴ See International Commission on Kosovo, *The Follow-Up of the Kosovo Report: Why Conditional Independence?* 31, online at http://kulturserver-hamburg.de/home/illyria/kosovocommission.org_report_english_2001.pdf (visited Sept 18, 2005) ("The classic nineteenth-century concept of sovereignty, even if it rarely pertained in practice, was a concept of absolute territorial sovereignty. In the twenty-first century, sovereignty is necessarily shared and dependent on agreements with a range of international actors.").

haps a few states will develop formal empires, reducing other states to subunits.¹⁰⁵

This does not come close to exhausting the possibilities for an international legal and political order in which states as such are not obsolete but are to some significant extent de-centered or altered from their current form. And the point in outlining these possibilities is neither to argue that any is deterministically inevitable,¹⁰⁶ nor that any is normatively superior. But even if we believe that human agency will have little impact on the evolution of the international order, there is value in entertaining thought experiments about likely changes. That is because existing states and substate entities will fare differently in different possible future scenarios. Existing actors may be able to position themselves now in ways that will enable them to reap greater benefits (or avoid emerging hazards) as the global order changes.¹⁰⁷ While we may not be able entirely to halt or bring about any particular future, we can probably slow or hasten various developments, and purposive human action may influence them at least on the margins.¹⁰⁸

B. Back to “Failed” States: A Modest Proposal

Returning to the issue of failed states, with which this Article began, what are the implications of thinking of the modern state as an ephemeral and not necessarily benign form of social organization? The most obvious implication is that our instinctive response to state failure could well be the wrong response. If the state as a form of social organization is no longer adaptive, or if it never was adaptive, then it doesn’t necessarily make any sense to “fix” so-called failed states through heroic efforts to build or rebuild traditional state structures. At any rate, we may need to distinguish between governance structures, which all societies require, and the particular governance structures that have characterized the modern state. We may also need to discard the legal fictions associated with the belief that every society

¹⁰⁵ Which states is anyone’s guess, but the United States and China have to be frontrunners. See generally Niall Ferguson, *Colossus: The Price Of America’s Empire 2* (Penguin 2004) (arguing that the United States is not only now an empire but also that it has always been an empire); Wendt, 9 Eur J Intl Rel at 524 (cited in note 74) (describing certain countries, including the United States, as “Great Powers” and “hyper-powers”); Giddens, *Runaway World* (cited in note 28) (noting America’s unparalleled power in the post–Cold War world).

¹⁰⁶ See Wendt, 9 Eur J Intl Rel at 525 (cited in note 74) (arguing that a world state is the only rational choice available to Great Powers).

¹⁰⁷ See id at 530.

¹⁰⁸ See Mikkell Thorup and Mads P. Sorensen, *Inescapably Side by Side: An Interview with David Held*, Polity (Feb 2004), online at <http://www.globalpolicy.org/globaliz/define/2004/04heldinterview.htm> (visited Sept 18, 2005) (“[T]he history of liberal democracy is associated with a single political form—the territorial nation-state—today we need to cash those principles in at different levels.”).

must be part of some sovereign state as a matter of international law, and instead invent new ways for both individuals and groups to interact with international entities within a framework of international law.¹⁰⁹

I should make it clear that although the category of failed states is largely illusory,¹¹⁰ insofar as most failed states were never truly successful states, there is nothing illusory about the conflict and human misery rampant in these societies. However we analyze the root causes of such conflict and misery, the humanitarian and security problems associated with failed states must be addressed. The question is not whether it is appropriate for external actors to intervene in catastrophic crises—I take it as a given that it is,¹¹¹ and international law has already evolved to accept this.¹¹² The question is, “How?”

Ironically, if we continue to assume that the solution to the many problems in strife-ridden societies is to prop up pseudostates, then hand over legal sovereignty as quickly as possible, we may do far more harm than we would by developing alternatives to statehood.¹¹³ State-building, at least as done recently in Afghanistan and Iraq, for instance, can itself simply be cover for abandoning troubled societies to the same old war-lordism and violence that tore them apart in the first place.

¹⁰⁹ Lon Fuller famously defined a legal fiction as “either (1) a statement propounded with a complete or partial consciousness of its falsity, or (2) a false statement recognized as having utility.” Lon L. Fuller, *Legal Fictions* 9 (Stanford 1967). In this case, however, the legal fictions connected with statehood and sovereignty may have outlived their utility. See Oscar Schachter, *The Decline of the Nation-State and Its Implications for International Law*, 36 Colum J Transnatl L 7, 23 (1997) (discussing the trends in transnational activities that have made the state vulnerable while expanding the horizons of international law).

¹¹⁰ See Hamilton, *The Idea of the Nation State*, Independent (cited in note 47) (noting that the concept of the failed state is “[o]ne of the most over-used and least useful concepts for understanding the modern world”). In addition to being illusory, some scholars have argued that the concept is racially inflected. See, for example, Ruth Gordon, *Saving Failed States: Sometimes a Neocolonialist Notion*, 12 Am U J Intl L & Policy 903, 969 (1997); Henry J. Richardson, “Failed States,” *Self-Determination, and Preventive Diplomacy: Colonialist Nostalgia and Democratic Expectations*, 10 Temple Intl & Comp L J 1, 7–8 (1996) (arguing that “failed states” is a pejorative label used to justify intervention by more powerful countries).

¹¹¹ Notwithstanding the critiques by Ruth Gordon and Henry Richardson, see note 110, humanitarian and other interventions can arise out of mixed motives, and can be imperialist in complex ways. But we cannot stop with that critique. Given the inequalities in global power, interventions, for the foreseeable future, may be tainted by the dark history of colonialism and imperialism, but nonintervention in situations of severe human rights abuses, war, or poverty has even greater costs for the affected populations.

¹¹² See J.L. Holzgrefe, *The Humanitarian Intervention Debate*, in Holzgrefe and Keohane, eds, *Humanitarian Intervention* 15 (cited in note 1) (discussing the development of the law of humanitarian intervention); Brown, 34 Stan J Intl L at 347 (cited in note 17) (noting that the International Criminal Tribunal for the former Yugoslavia was designed “to apply a well-established body of international humanitarian law as criminal law”).

¹¹³ See Pei and Kasper, *Lessons from the Past* at 3–4 (cited in note 25) (describing the “mixed” results in Grenada, Panama, and Haiti when the United States, after militarily intervening to topple a government, quickly handed over power to elected local leaders).

What are the alternatives to the sovereign state?¹¹⁴ In recent memory, there have been many: colonies, dependencies, condominiums, protectorates, mandates, trusteeships and situations of “intermediate sovereignty,” as in Palestine or the Western Sahara.¹¹⁵ Some of these governance arrangements lasted for only a few years; others for centuries.¹¹⁶ In the state-centric view of the world, all of these alternatives to the sovereign state appear, at best, as temporary halfway houses on the way to statehood—and, at worst, as varieties of repression by great powers, squelching subject peoples’ aspirations for self-determination.¹¹⁷

It is of course true that the recent history of substate entities has not been a terribly happy one; although I have suggested here that statehood isn’t all it’s cracked up to be, the injustice of colonialism, by whatever name, was also real.¹¹⁸ (As real as the suffering in so-called “failed states.”)

¹¹⁴ See Krasner, 25 Mich J Intl L at 1077 (cited in note 45):

Sovereignty is now the only game in town. Other ways of ordering political life, including colonialism, trusteeships, empires, and the traditional Sino-centric system, lack legitimacy; that is, they would either not make sense (how many people in Taiwan would be able to explain the concept of a tributary state, a central element in the traditional Sino-centric view of international relations), or would be rejected by a large proportion of the populations that might be subject to them, which would clearly be the case for colonialism.

¹¹⁵ See the series of articles by Scharf, Hooper, and Williams on “earned sovereignty” in note 22. See generally Robert Jackson, *Quasi-States, Sovereignty, International Relations and the Third World* (Cambridge 1990) (arguing that Third World nations are sustained by the “negative sovereignty” of the patronage of industrialized nations). See also Ralph Wilde, Note, *From Danzig to East Timor and Beyond: The Role of International Territorial Administration*, 95 Am J Intl L 583, 587–90 (2001) (describing the use of “international territorial administration” in the territories of Leticia, West Irian, Eastern Slavonia, the German Saar, and Mostar). Some suggest that the current arrangement in Iraq is a form of trusteeship. See, for example, Brian Deiwert, *A New Trusteeship for World Peace and Security: Can an Old League of Nations Idea Be Applied to a Twenty-First Century Iraq?*, 14 Ind Intl & Comp L Rev 771, 771 (2004) (“The United States led coalition . . . had assumed . . . a de-facto trusteeship over Iraq.”).

¹¹⁶ Colonies have been a feature of international political life for several thousand years, disappearing only in the 1960s. Condominia have flourished on and off; typical was the joint control of Bosnia by the Ottoman Empire and Austria-Hungary from 1878 to 1908. Perritt, 8 UCLA J Intl L & Foreign Aff at 417 (cited in note 1). The “mandate system,” created by the League of Nations, placed Germany and Turkey’s former possessions under foreign supervision overseen by the League’s Permanent Mandates Commission. Most mandate territories that were still under foreign supervision after World War II became UN trusteeships when the United Nations replaced the League of Nations. When the last of the trusteeship territories, Palau, became independent in 1994, the UN Trusteeship Council suspended operations. See Helman and Ratner, 89 Foreign Policy at 6, 12 (cited in note 2). The recent UN High Level Panel on Threats now recommends abolishing the trusteeship provisions of UN Charter. See High-Level Panel on Threats, Challenges, and Change, *A More Secure World* at 92 (cited in note 101).

¹¹⁷ See, for example, Robert A. Williams, Jr., *Columbus’s Legacy: Law as an Instrument of Racial Discrimination Against Indigenous Peoples’ Rights of Self-Determination*, 8 Ariz J Intl & Comp L 51, 67 (Fall 1991).

¹¹⁸ See Gordon, 12 Am U J Intl L & Policy at 969–70 (cited in note 110); Richardson, 10 Temple Intl & Comp L J at 7–8 (cited in note 110). My goal here is not to defend the alternatives to full state sovereignty that have so far emerged. The past history of colonies, trusteeships, and the like is not pretty: much of the time, these terms masked straightforward oppression and

But perhaps it is time to reexamine some of these forms of social organization, and ask whether they must inevitably take repressive forms or be explicitly understood as temporary. It's worth recalling that the world today still contains a surprising number of entities that are neither sovereign states in a strict sense nor substate units in a strict sense, and many of these are both stable and fairly contented (at least, more contented than many states). Consider first many of the small island states, such as Guam, Aruba, the British Virgin Islands, or Anguilla. Guam is an American dependency, Aruba is part of the Kingdom of the Netherlands, the British Virgin Islands is a Crown Colony, and Anguilla is an "associated state" of Britain. All have defined territories and populations, none is directly represented in their "parent" state's legislature, and none is a member-state of the United Nations. In each case, local authorities are responsible for most internal affairs, while the parent state is responsible for defense and external relations. None is without problems, but each appears quite stable and reasonably successful.¹¹⁹

Or consider Vatican City: its territory is minute, and it has fewer than two hundred resident "nationals" (who acquire Vatican nationality through election to certain positions within the religious hierarchy). Nonetheless, it conducts formal diplomatic relations and has permanent observer status at the United Nations.¹²⁰ The Sovereign Military Order of Malta functions in a quasi-state manner as well: though it lacks a defined territory or population, it issues passports and currency, has UN observer status, and is considered formally a sovereign subject of international law, capable of entering into treaties with states.

More examples could be given—Puerto Rico, Taiwan, Andorra—but this is probably enough to remind us that even today, despite the state-centered international legal order, there is room for other forms

exploitation, often racist in nature. Recent interventions, occupations, and international administrations can also be criticized, either in motivation, or in execution, or both. But as we know, the state's history is just as ugly.

¹¹⁹ That said, even this claim is contested. See, for example, Ediberto Román and Theron Simmons, *Membership Denied: Subordination and Subjugation Under United States Expansionism*, 39 San Diego L Rev 437, 522 (2002):

[W]hat is newsworthy is that millions of United States citizens and nationals who happen to live on the United States island territories do not and have not ever had the right to decide this country's or their own territory's future. They are disenfranchised yet few see them that way. The hegemonic tools of citizenship, international status, and economic dependency have well served the United States' empire building.

¹²⁰ See Kal Raustiala and Lara Stemple, *Benedict XVI's Other Role*, The New Republic Online (Apr 29, 2005), online at <https://ssl.tnr.com/p/docsub.mhtml?i=w050425&s=raustialastemple042905> (visited Sept 18, 2005). See also Office of the United Nations High Commissioner for Human Rights, *Information on Countries*, online at <http://www.ohchr.org/english/countries/> (visited Sept 18, 2005) (listing the Holy See as a nonmember state).

of social organization that are not just halfway houses on the way to “full” statehood.¹²¹ Indeed, it is only within living memory that the dogma of state sovereignty solidified within international legal and political discourse, making it difficult or impossible to openly suggest that not every society ought to be (or strive to become) a sovereign state.¹²²

Bearing this in mind, perhaps we can begin to think differently about certain existing problems. Take Kosovo: technically a province

¹²¹ Indeed, as many commentators have observed, we have already entered an era in which alternatives to total state sovereignty are being attempted in troubled regions. See, for example, Michael Ignatieff, *State Failure and Nation-Building*, in Holzgrefe and Keohane, eds, *Humanitarian Intervention* 299, 306 (cited in note 1) (asserting that “[i]t is a mistake to assume that the aim of rebuilding failed states is simply to restore complete Westphalian sovereignty in these places”); Brooks, 101 Mich L Rev at 2284 (cited in note 25) (arguing that international intervenors should not apply a standard rule-of-law “template” when trying to resuscitate failed states). Scharf, Hooper, and Williams also propose an earned-sovereignty approach to post-intervention state-building. See note 22. In Bosnia, foreign peacekeepers (currently from the EU) remain on the ground to this day, and the UN High Representative exercises ongoing authority over numerous day-to-day governance activities. In Kosovo, the same is true of UNMIK, and thousands of NATO troops remain in the region. In Sierra Leone, more than 3,371 blue-helmeted troops help ensure security and assist with a wide range of reconstructive tasks. There are 16,310 UN troops in Congo, 6,700 in Haiti, and 510 still in East Timor. See United Nations Peacekeeping Operations, *Background Note: 31 March 2005*, online at <http://www.un.org/peace/bnote010101.pdf> (visited Sept 18, 2005). In Afghanistan, 8,000 NATO-commanded troops remain on the ground, along with nearly 7,000 U.S. troops; and in Iraq, of course, the foreign troop presence remains in the hundreds of thousands. See *International Contributions to the War on Terrorism*, online at <http://www.centcom.mil/Operations/Coalition/joint.htm> (visited Sept 18, 2005); *US and Coalition Troops in Iraq, June 2003*, online at http://uspolitics.about.com/od/wariniraq/a/troops_june05.htm (visited Sept 18, 2005).

With the exception of Kosovo, all of these regions just mentioned possess formal legal sovereignty, but in practice all remain subject to the decisions of foreign powers and operate with their sovereignty severely constrained. The niceties of international relations require the various intervening powers to insist that this state of affairs is purely temporary—but can we doubt that in practice, in some cases, it will be for a very long period of time, perhaps extending indefinitely into the future?

¹²² There is, in fact, a significant historical irony here. Until quite recently, few scholars or diplomats or policymakers assumed statehood as the norm. See notes 110, 115–116. This was not because of the greater broadmindedness of earlier generations. At least in the West, the willingness to accept numerous nonstate arrangements stemmed, most of the time, from a collective readiness to see many societies as occupied by inferior beings, suited only to life as a permanent subject in colonies or other “lesser” political entities. As the twentieth century’s catastrophes sparked the dawn of the human rights era, the notion that some peoples are inherently less capable of self-governance than others has thankfully ceased to be an acceptable basis for foreign policy and international affairs.

Ironically, however, this salutary development had an unintended consequence. Increasingly universalist conceptions of human dignity gave rise to widespread commitments to self-determination and democracy. See note 136. These, in turn, came to be understood as best realized through the vehicle of the state. Since the independent, sovereign state was seen as essential by Westerners, who dominated the emerging human rights and democracy discourses, it gradually became more and more difficult to imagine nonstate solutions to societal violence and collapse. The idea of the state-as-means began to converge with the idea of the state-as-end. As a result, instead of the emergence of a universalist human rights discourse opening up discussion of new governance arrangements distinct from the state, the universalist human rights discourse may have contributed to our collective inability to defetishize the state.

of the former Yugoslavia, Kosovo currently exists in limbo, administered by the United Nations. Many Kosovars want Kosovo to become an independent state; Serbia and Montenegro oppose this. The international community continues to hedge, anxious about the proliferation of microstates,¹²³ but leery of leaving Kosovo under the thumb of Serbia. It is conventional wisdom to lament the uncertainty about Kosovo's final status, and to attribute many of Kosovo's ongoing problems solely to this uncertainty. But why should we assume that Kosovo faces an either/or choice, with independent statehood as one option, and provincial status (or merger with Albania) as the other? Why not a permanent UN administration? Or a loose affiliation with a willing third-party state? Or some sort of special status within the EU? Perhaps Kosovo's problem is not the *ambiguity* of its final status, but our collective inability to think beyond the paradigm of statehood.

We could ask similar questions about Iraq, Afghanistan, and a multitude of other failed or weak states. Is statehood best suited to bringing peace, prosperity, and the rule of law to these troubled societies? In some cases, perhaps it is; in others, it probably is not; and this question should be answered based on facts on the ground, not on commitment to any particular theory.

States weaken and fail for many different reasons.¹²⁴ In Iraq, a repressive but fairly effective regime toppled only as a result of external invasion; the collapse of Iraqi state institutions was hastened along by postinvasion Coalition policies. Other moderately well-functioning

¹²³ See Daniel Patrick Moynihan, *Pandaemonium: Ethnicity in International Politics* 148 (Oxford 1993) ("[W]hen the question arises as to whether an ethnic sub-unit within a state is entitled to self-determination and recognition, the legal complexity grows exponentially."); Pascal Boniface, *Pandora's Box: Ideals or Interest?*, *Le Monde Diplomatique* (Jan 1999), online at <http://mondediplo.com/1999/01/19states> (visited Sept 18, 2005) (Lorna Dale, trans) (noting that in 1500 Europe had almost five hundred political entities, and by the beginning of the twentieth century it had only a few dozen, but by 2000 there were fifty, and querying what Europe would be like in another decade); *Growth in United Nations Membership, 1945–2005*, online at <http://www.un.org/Overview/growth.htm#2000> (visited Sept 18, 2005) (showing that UN membership has grown to nearly two hundred states). See also Williams, 31 *Denv J Intl L & Policy* at 389 (cited in note 22) (discussing potential sovereignty structures in Kosovo); Jorri C. Duursma, *Fragmentation and the International Relations of Micro-States: Self-Determination and Statehood* 110–32 (Cambridge 1996) (examining the statehood of and the legal issues at stake in relation to the European microstates and arguing that the development of international law improves the stability of such states).

¹²⁴ And different reasons for state failure may lend themselves to different solutions. In some cases, strengthening or reinventing state structures and "tweaking" our understanding of the state may suffice to address existing societal problems. But in others, more radical "nonstate" solutions may be called for. It is also important to acknowledge that there are very many external factors affecting state "failure" that can be addressed in ways separate from the state or nonstate status of a given society. Thus, the flow of arms from elsewhere around the globe, or the existence of easy mechanisms for corrupt elites to export and hide capital, can facilitate violence and corrupt governance.

states may be ripped apart by lengthy civil wars fought on ideological grounds. Although I have argued that many modern states reflect historical happenstance more than natural social or political communities, in some places the nation-state, however artificially created, is nonetheless today the symbolic locus of identity for most people. This may remain true, in cases like those above, even when state institutions fall apart.¹²⁵ In such cases, statehood may be a nonnegotiable demand of the local population, and an effort to make the society in question indefinitely forgo statehood may spark more instability than a standard state-building approach.

My proposal will likely be most appropriate for societies where indigenous conceptions of identity have never strongly coalesced around the idea of statehood. In Kosovo, where independent statehood has always been a nonstarter from the international community's perspective and few Kosovars even dreamt of independence until relatively recently, some "third way" might well appear to many as a viable option. Similarly, a "third way" might well appeal to many in the weak or failed (the never-really-were) states of central Asia and Africa, where the nation-state has not in general been as historically important to local understandings of identity. In Sierra Leone, for instance, during the height of the civil war, many indicators suggested that a majority of Sierra Leoneans would have preferred a return to the status of British colony, had that option been available.¹²⁶

¹²⁵ Thus, in Iraq I suspect that nationalist sentiment is deep enough amongst Iraqis of all ethnic and religious backgrounds to make statehood the only viable option. Despite the violence that continues to plague post-Saddam Hussein, post-election Iraq, for now, attempting other alternatives—some status other than continued sovereign statehood—might generate even more opposition.

¹²⁶ It was not. The British, whose military interventions did help stabilize Sierra Leone as the civil war wound down, made it clear that the British public had no appetite for accepting longer-term responsibility for Sierra Leone. And any preference for a return to colonial status on the part of Sierra Leoneans was hardly based on revisionist colonial nostalgia; I have never encountered a Sierra Leonean who had the slightest illusions about the racism and exploitation that characterized life under British rule. (I visited Sierra Leone frequently between 1999 and 2001.)

But everything is relative. Colonial exploitation, bad as it was, struck most Sierra Leoneans as nonetheless preferable to a brutal civil war characterized by extensive forced recruitment of child soldiers and mutilation and rape as terror tactics.

The tragedy for Sierra Leoneans, as for many other people around the globe, is that the range of options is so limited. "Independence or bust" often turned into "independence *and* bust." In many post-colonial states, collapse was virtually preordained: stripped of many natural resources, with traditional social structures damaged by colonialism, borders drawn arbitrarily, and power passed along from colonial rulers to corrupt local elites, how could collapse have been prevented? Most post-colonial states faced vast structural disadvantages that few have overcome. For many of these societies, decolonization simply became a way for Western powers to avoid cleaning up the messes they left in their wake. Decolonization helped some local elites, but did as much harm as good to most ordinary people. See note 58. See also Guidieri, Pellizzi, and Tambiah, eds, *Ethnicities and Nations* at 1–2, 8 (cited in note 61):

If we separate out the abstract idea of the state from its violent history, we can view the modern state as a means to realize peace, prosperity, and human dignity. But the state should be evaluated functionally, based on how well it in fact achieves those ends for particular peoples. There is no reason to consider the state an end in itself. Instead of trying to prop up political structures that don't necessarily work, we should accept that the challenge, today, is to develop alternatives to the state, alternatives that can be respectful of human rights and democratic imperatives, but not paralyzed by the need to mimic state structures that have little or no independent value.

The project of devising democratic, accountable, and rights-respecting alternatives to the state is well beyond the scope of this short Article. But it is not hard to imagine some possible forms of "nonstate" arrangements that might at times be preferable to statehood in troubled regions: indefinite international administration by the UN, similarly indefinite administration by a regional body such as the EU or African Union, long-term "partnership" or "affiliation" with one or more "successful" states (which need not be geographical neighbors), federation with neighbors, and so on. In a world in which the lines between public and private get blurrier by the day, it is even possible to imagine societies outsourcing some traditional governance functions to private actors, not on a short-term, emergency basis,¹²⁷ but indefinitely. This already happens, to some extent, and although the record is mixed,¹²⁸ the option merits further exploration.¹²⁹

[Postcolonial state development was] expected, under the sponsorship and direction of Western and North American countries, to heap great benefits upon the rest of the world. . . . [Yet these processes] have generated—whether by collusion or reaction, in good faith but poor anticipation—massive civil war, repressive authoritarianism by military coterries fortified by Western weaponry, and gruesome interracial and interethnic bloodshed roused by fundamental religious bigotry and inflamed by flagrant misuse of mass media. . . . Frequently, as in Africa and Oceania, mosaics of different peoples have been coerced into a more or less hasty acceptance of this formula, in order to acquire the international legitimacy and financial standing (i.e., the "right" to contract debts) needed to tackle the problems brought on by the demise of the old colonial administrations.

See also Bjørn Møller, *The Security Sector in Zimbabwe: Its Role in State-Building and the Present Crisis* 4–5 (unpublished draft 2001), online at <http://www.ihis.aau.dk/~bm/Zim-crisis.doc> (visited Sept 18, 2005) (discussing Africa's "vampire states," where the state itself is the main threat to the security of its citizens).

¹²⁷ Such outsourcing currently occurs in the contracting of international aid organizations to run refugee camps or train health workers. See Dickinson, 47 Wm & Mary L Rev (cited in note 97).

¹²⁸ See John Tagliabue, *As Multinationals Run the Taps, Anger Rises over Water for Profit*, NY Times A1 (Aug 26, 2002) (detailing protests in several Latin American countries where there has been privatization of government-run water systems).

¹²⁹ As David Luban provocatively noted, in connection with this Article, at the January 27–28 Vanderbilt International Law Roundtable (2005), all of our legal categories are based on the assumption that we can distinguish reliably between the "public" and the "private" spheres. This dichotomy has long been challenged, but perhaps we today live in an era in which there is no

There are various obvious objections to what I am proposing. Virtually all relate, in one way or another, to the risk that people living in what I will call “nonstate societies” will lose all control over their own destinies. Thus, critics of my proposal might argue that the state is currently the only means by which individuals in troubled and impoverished societies can hope to have an impact on the international order. Since only the state possesses international legal personality, only states can impact the structure of international treaties and trade pacts, for instance. If people in troubled societies lose the state, won’t they also lose all capacity to ensure that the international order does not end up stacked against them? If we decide that people living in failed states ought not to be living in sovereign states at all, but in some other non-state arrangement, aren’t we just relegating large portions of the world’s populace (who just happen to be, in the main, non-Western) to permanent second-class status? And in any case, just who is the “we” who decides that some societies are best off without the state?

These objections are far from frivolous, but I think they can be countered by a mixed dose of realism and imaginative utopianism. First, the realist response: like it or not, much of the world’s population is already relegated to second-tier status. The fiction of state sovereignty notwithstanding, most of the world’s states have little or no capacity to meaningfully affect global financial, environmental, or security arrangements. As the misnomered “antiglobalization” movement has often pointed out, the global order is increasingly controlled by a finite number of states and actors, and it is sheer delusion to imagine that statehood offers the peoples of Uruguay, Armenia, or Zambia any real ability to alter this. Put differently, if the people of Liberia or Bosnia were to lose the state, what would they truly be losing? Many of the advantages of independent statehood are illusory—and, as I have argued throughout this Article, the disadvantages are often legion. Losing the state would, at worst, make the residents of most troubled societies no worse off than they already are in relation to the global order.¹³⁰

longer anything unique about the “public” sphere at all: we may live in what Luban termed a “post-public choice world.” If this is indeed the case, then, however disquieting we find it, it is an additional argument for thinking creatively about remedies for governance problems that seek to merge the public and the private.

¹³⁰ See Timothy William Waters, *Contemplating Failure and Creating Alternatives in the Balkans: Bosnia’s Peoples, Democracy, and the Shape of Self-Determination*, 29 Yale J Intl L 423, 462 (2004):

[S]ince 1991, there has not been an integrated state on Bosnia’s territory. Dayton did not reverse, but rather cemented, that dispensation, and subsequent developments have not fundamentally changed matters. There is still barely a Bosnian state, and still not enough of one to matter. A U.N. seat does not make a state, and most decidedly not a nation. Yet in

Realistically, becoming “nonstates” could hold genuine advantages for people in “failed” states. As globalization marches on, even many powerful states have found it advantageous to constrain explicitly their own sovereignty in many respects in order to solve collective action problems. The EU is the most far-reaching example of modern states (nearly all prosperous) voluntarily constraining their own sovereignty in order to achieve mutual benefits.¹³¹ When it comes to sovereignty, the EU suggests that, at times, less can be more. Even the United States, despite recent unilateral rhetoric, accepts the strictures of the WTO in exchange for the economic benefits it acquires.¹³²

These examples are not wholly generalizable, since the EU and the WTO are each, in their way, “rich men’s clubs,”¹³³ but the irony is worth noting: in this era of globalization, the rich states have all constrained their sovereignty voluntarily, to one degree or another, and reaped significant advantages.¹³⁴ Meanwhile, the poorer states find themselves locked out, left alone to enjoy the dubious benefits of their unabridged sovereignty. Increasingly, sovereignty has become a chump’s game.

Constraining—even wholly sacrificing—their own sovereignty could thus bring substantial benefits to the populations of troubled

the case of Bosnia, that is about all there is: recognition has meant little more, except, of course, the denial of everything else that is happening or could happen.

One might also raise a related practical objection to my proposal: in societies torn by violence, with few functioning governance institutions, why should we expect “nonstate” status to solve problems just because statehood has failed to solve those problems? In other words, just because you don’t lose much if you lose the state doesn’t mean you gain much either. Won’t whatever conditions that led to state collapse continue to exist in a given society, even if it operates under a different, “nonstate” appellation?

In answer, I have already noted that not all “failed” or “weak” states *should* become nonstates; whether or not they should will depend on their unique histories. But in at least some cases, state structures did not merely fail to stop societal collapse, they actually hastened or led to societal collapse. Thus, in situations of ethnic warfare, condemning warring groups to perpetually share the same unitary state can be a recipe for disaster. (Though ethnicity is as socially constructed as the idea of the nation-state, once in place it can be hard to shake.) “Nonstate” solutions that bring numerous “outsiders” into the internal governance process (for example, trusteeship arrangements) may help diffuse internal ethnic tensions. And nonstate arrangements that allow nonstate residents greater external educational, employment, and cultural opportunities can diffuse the intergroup competition (or simple lack of opportunity) that fueled conflict in the first place. See also Waters, 29 *Yale J Intl L* at 423 (“While we may owe Bosnians a great deal, we owe Bosnia nothing.”).

¹³¹ See Møller, *The Security Sector in Zimbabwe* at 3 (cited in note 126).

¹³² See Guzman, 45 *Harv Intl L J* at 347 (cited in note 92) (“The United States can better promote economic growth, prosperity, and job creation through international cooperation, specifically the WTO, than it can acting alone.”).

¹³³ Consider NATO partner Turkey’s struggle to join the EU. See, for example, Editorial, *Turkey’s Promises*, *NY Times A22* (Apr 4, 2005).

¹³⁴ See Møller, *The Security Sector in Zimbabwe* at 3 (cited in note 126). These examples also reinforce the general argument that both on the level of the state and on the level of the international system, the continued fading away of certain forms of sovereignty is both likely and desirable.

states. Far from being relegated to a permanent global underclass, the residents of quasi-states or nonstates might be able to reap substantial benefits from constraining or sacrificing their sovereignty—assuming that wealthier states can be persuaded to collaborate.¹³⁵

This realist response does not wholly address all of the objections that might be raised to my proposal, however. In particular, it does not help us with the question of who decides, or the question of how we can ensure democracy, human rights, and accountability in the absence of state structures. If a failed state moves into some nonstate status of indefinite duration, who governs? Who makes the decisions that affect day-to-day life? Who ensures that decisionmakers are responsive, transparent, and accountable, and that ordinary people—and organized political communities—have the ability to participate in the decisions that affect them? Who remedies wrongs in these nonstate societies?¹³⁶

In response, it is not quite enough to note simply that many existing states (and not just failed states) already lack internal democracy and accountability, just as they lack the ability to influence the global order. Some degree of imaginative utopianism is also needed to respond to these concerns. And here we might again take our cue from the so-called “antiglobalization” movement—not its most knee-jerk representatives, but the many thoughtful individuals and NGOs who

¹³⁵ A main practical challenge to implementing my proposal may not be in convincing residents of “failed” or weak states to forgo sovereignty. The main challenge may instead lie in persuading the wealthier states to share the benefits of certain profitable forms of constrained sovereignty (such as EU membership). This issue, too, is beyond this Article’s scope, but has been discussed elsewhere by Robert Keohane, Stephen Krasner, and others. See, for example, Krasner, 29 *Intl Sec* at 118–19 (cited in note 26); Robert O. Keohane, *Political Authority After Intervention: Gradations in Sovereignty*, in Holzgrefe and Keohane, eds, *Humanitarian Intervention* 275, 276 (cited in note 1). For the purposes of this discussion, it is perhaps enough to say that wealthy and stable states do have a real interest in aiding poor and failed states for the reasons noted at the beginning of this Article: failed and failing states pose grave risks to international security and economic stability. See notes 17–21 and accompanying text. This truth alone is not enough to overcome collective action problems, but it is a start. The overall EU willingness to “let in” poorer neighbors suggests that prosperous states can, at times, be persuaded that collaborative shared sovereignty arrangements with poorer states are in their own interest.

¹³⁶ These questions are central in thinking about failed states. See, for example, Molly Beutz, *Functional Democracy: Responding to Failures of Accountability*, 44 *Harv Intl L J* 387, 396 (2003) (articulating a definition of democracy as accountability and arguing that responses to failures of democracy should promote the rule of law and transparency); Larry Garber, *Democratic Governance and International Law*, 19 *Wis Intl L J* 369, 376 (2001) (arguing that democratic entitlement is important to achieving both a more peaceful and a more just world); Thomas M. Franck, *The Democratic Entitlement*, 29 *U Richmond L Rev* 1, 7–8 (1994) (noting that the paradox of states “clamor[ing] . . . for credible monitors to observe, and sometimes to run their first attempts at free and open elections,” is also a practice that “is bound to diminish their sovereignty”); Thomas M. Franck, *The Emerging Right to Democratic Governance*, 86 *Am J Intl L* 46, 64 (1992) (arguing that the widespread adoption of international electoral norms shows that the “balance [is] tilting toward . . . states actually practicing . . . electoral democracy”).

have begun to explore ways to make both public and private global institutions more accountable to ordinary people.

Just as the state is not necessarily democratic or benevolent, non-state entities (from private, for-profit corporations to NGOs, international financial institutions, and international organizations) need not inevitably be undemocratic and heedless of the common good. Increasingly, mechanisms for ensuring accountability and democracy within a very wide range of institutions are beginning to emerge.¹³⁷ Shareholder resolutions and voluntary codes of conduct help ensure corporate responsibility; international criminal law helps deter abuses by nonstate actors; grievance mechanisms in international organizations help resolve disputes over noncompliance and address arbitrariness in decisionmaking.

These mechanisms are enormously varied in their sophistication and their efficacy, and they offer no panacea. Nonetheless, they invite us to imagine a world in which norms of human dignity and democratic participation can be realized through an ever wider range of governance institutions, some of which may increasingly be distinct from the state.

CONCLUSION

My goal in this Article has been to raise questions about issues we often take for granted, and suggest that both domestically and internationally, perhaps we should be more open to diverse forms of social organization—and that we should strive to create an international legal order that permits and values numerous different forms of social organization. The state as such is not defunct, despite the changes wrought by globalization. On the other hand, some states may well be defunct, and shoring up the state wherever it is in jeopardy may be both pointless and damaging to human security.

This Article can only begin the conversation, however. I have suggested just a few ways in which defetishizing the state might change the way we think about both the architecture of international law and about the challenges associated with societies in crisis. Moving forward along this trajectory presents many challenges, as powerful actors would no longer have the luxury of ignoring demands for de-

¹³⁷ See Held, *Violence, Law, and Justice* (cited in note 18) (“Changes in the law of war, human rights law and in other legal domains have placed individuals, governments and non-governmental organizations under new systems of legal regulation—regulation which, in principle, recasts the legal significance of state boundaries.”). See also Albert O. Hirschman, *Exit, Voice, and Loyalty: Responses to Decline in Firms, Organizations, and States* 111–12 (Harvard 1970) (showing that individuals can use their “voice” by agitating from within to make private entities like corporations accountable).

mocratic governance.¹³⁸ Both individuals and groups have a legitimate right, increasingly recognized by international law, to enter into various forms of voluntary association, to determine their own political arrangements, and to be subject to political authority that is transparent and accountable. It will not be easy to create new domestic and international structures through which to realize these goals. But there is no right to statehood, nor should there be.

¹³⁸ And should not: many studies suggest that robust democratic governance structures are the best predictor of social stability. See, for example, Goldstone and Ulfelder, 28 *Wash Q* at 15 (cited in note 38) (noting that the most stable governments are either closed dictatorships or liberal democracies). See also Beutz, 44 *Harv Intl L J* at 393 (cited in note 136); Franck, 86 *Am J Intl L* at 64 (cited in note 136).

The European Union as a Security Actor

Security Provision through Enlargement

By BOYKA STEFANOVA

It cannot be repeated often enough: the *raison d'être* of the European project is to maintain stability, peace, and prosperity in Europe.

—Erik Holm¹

The history of the European Union (EU) represents an intriguing security paradox. European integration was born out of the destruction of World War II. Its main rationale was to prevent the recurrence of conflict and devastation in Western Europe, although such objectives were never explicitly stated. Throughout the period of the cold war, regional integration unfolded as an evolutionary process of expansion across an increasing number of issue areas and participating countries. It successfully performed security functions without a formally defined security purpose. The true success of European integration was measured in economic growth, social welfare, and positive security dynamics among former adversaries in the regional system. The geopolitical position of Western Europe was significantly reinforced.

During the post-cold war era, under conditions of decreased direct military threats, the European Union (EU)² for the first time formulated a security interest, developed decision-making procedures, and created an institutionalized security domain. It continued to increase its stake in European security by extending an area of freedom, security, and justice in Europe.³ The continued consolidation of the security position of the union throughout the 1990s was closely related to the historic reunification of the European continent and the democratization of Eastern Europe. By 1996, ten Central and East European countries (CEECs) had applied for EU membership. Enlargement to the east became the true *modus operandi* of integration—a meeting

place of its goals for institutional expansion, the democratic transformation of Eastern Europe, and the stabilization of the entire regional system. The eastward enlargement has been a complex multidimensional process comprised of three elements: (1) accession of the countries from Central and Eastern Europe (now complete) and continued geographic expansion; (2) long-term integration strategy toward the Western Balkans; and (3) gradual development of a European Neighborhood Policy contributing to the democratization, openness, and political stabilization of countries in the periphery of the “Wider Europe.”⁴

Academic and public policy research has sought intuitively to elucidate the security implications of European integration. There is a consensus in the literature that the European Union is a nontraditional security actor. A number of authors regard it as the most important security institution in Europe. The EU has its own identity features, these authors argue. It attracts countries from the periphery. It participates in security creation for the whole of Europe, both independently and jointly with NATO and the Organization for Security and Cooperation in Europe (OSCE). Security, therefore, has become indivisible from the EU’s integrative dynamics.⁵ The security role of the union develops at three levels: an institutionalized security domain, the Common Foreign and Security Policy (CFSP); an “external anchor” for the periphery; and direct military capacity.⁶ According to Anders Björner, EU enlargement should be regarded as “perhaps the most important security-producing process taking place in Europe today.”⁷

At the same time, a variety of studies contend that the EU is not a meaningful security actor as, historically, security has been only an implicit integration objective and remains underdeveloped. The union continues to depend

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on NATO's security umbrella and is at best one of several institutions relevant to European security.⁸ Moreover, studies on the evolution of European order in the post-cold war era argue that EU integration cannot bring about the ultimate unification of Europe, as its enlargement mechanism creates new divisions vis-à-vis nonmembers in the wider periphery.⁹

Central in this discussion is the presence of an assumption with respect to the viability of the EU's security component—that is, whether a security rationale is inherent to the integration project and whether the EU can act as a security provider independently of other security institutions. The question arises: Can regional integration resolve security issues? Does it possess an inherent capacity for the creation of security?

Motivated by the complexity of historical evidence and the inconclusive scholarly discussion so far, this article sets out to investigate the security impact of European integration by examining a critical dimension of the integration process, its eastward enlargement. It seeks to determine the causal path of the EU's capacity to foster security. Integration has a dual definition. As an endgame, it denotes the emergence of a regional authority. Integration is also a process of gradual transfer of allegiances toward the region through the progressive pooling of sovereignty. Actor-, process-, and structure-based approaches are, therefore, relevant to the study of its security outcomes. This article examines the European Union as a unique security actor in a dynamic setting by tracing its capacity for security creation through process. The continued eastward enlargement serves as an example of the evolution, attributes, and modus operandi of the EU's nontraditional role in regional security.

The argument proceeds as follows. First, the article explores the relative utility of analytical concepts in defining the security posture of the union. It then traces how the evolution of its security features has shaped its continued enlargement strategy. The paper regards enlargement as a nonconventional mechanism for the creation of security and identifies three sources of security provision in the process: (1) centralization of authority through enhanced conditionality; (2) extension of European governance to Eastern Europe and beyond through the externalization of policies; (3) increasing military capacity for direct intervention. The article concludes that the eastward enlargement creates an opportunity progressively to enhance the positive security impact of the union well beyond the status of its military capabilities.

THE SILHOUETTE OF A SECURITY ACTOR

[A]s far as contemporary security is concerned, there is no standard "unit of account." How much additional security does an aircraft carrier bring? Is it more or less than spending the equivalent amount of money on peacekeeping or the reconstruction of failed states? Security today is a multidimensional concept. Bringing peace, stability and order is an effective way of "draining the swamp."¹⁰

The European security order represents a collective security system which expands beyond the underlying European regional security complex to include significant portions of the Eurasian landmass.¹¹ Such horizontal arrangements display significant limitations in their capacity for security creation. They tend to perpetuate political divisions or often fail to resolve collective action problems, arguably resulting in a weakening of the quality of the security order.¹² The discrepancy between the growing membership base of the European security system and its effectiveness has become manifest since the end of the cold war. The existing security arrangements, a product of cold war geopolitics, have not been fully able to address new forms of conflict and insecurities in Eastern Europe related to nation building, failing states, and minority concerns.¹³ Regional integration and alliance expansion emerged as the preferred method for the provision of security. Since the second half of the 1990s, both NATO and the EU have sought an expansion of their membership base in Eastern Europe.

The logic of integration differs from the logic of security provision typical of alliances. Liberal theory, as well as integration theory per se, emphasizes the economic character of the process. Its security rationale remains rather implicit. It applies as an externality, for example, a positive, incidental consequence of integration beneficial for the entire region, rather than an intended purposive outcome. David Mitrany, whose functionalist approach to international organization provides a fundamental premise in integration theory, regarded the creation of international sectoral agencies as the true alternative to war, "a working peace system."¹⁴ Integration enhances the collective method of decision making and the mobilization of responses to a variety of disturbances and threats. Because national security objectives are no longer pursued outside the imperatives of the region, enhancement of the security of one individual country does not

lead to a decrease in the security of its neighbors. The progressive institutionalization of interdependencies—the essence of the integration process—leads to the development of relations of trust, commonality of goals, and joint decision making. The process is a net producer of security by cooperative, comprehensive and, at the same time, nonconventional approaches.

The historical experience of European integration fully conforms to this logic. Security considerations determined the original institutional design of the European Coal and Steel Community (1951), the failed European Defense Community (1954), and the European Economic Community (1957). Regional integration made military competition between France and Germany obsolete. It transformed the Franco-German relationship from recurrent conflict and rivalry into a strategic partnership.¹⁵ Conversely, a geopolitical rationale has been present in all rounds of European enlargement by reinforcing the relative position of Western Europe. The evolution of the EU is, therefore, a vivid demonstration of the widely held proposition that European integration contributes to regional security. It may be expected that, through geographic expansion, it will continue to positively affect regional security dynamics.

Two sets of questions arise from this probability. First, what attributes define the EU as a security actor and, second, what is the causal path for the provision of security through integration? To address these issues, the following section will examine the security qualities of the union as informed by its historical evolution.

The Complexity of Security Creation: The EU between Community, Society, and Empire

The EU is a security actor whose conceptualization represents an intriguing research question. The history of European integration is a major example of the creation of security beyond the nation state. The difficulty of developing a single definition of the “actorness” of the union is due to its dual nature as an international institution and an evolving political system. Its systemic character is still a work-in-progress. Regional integration is inseparable from the historical circumstances and structural constraints within which it takes place. The duality of change produced by the evolution of the systemic qualities of the EU as an actor and of the structural conditions within which it is embedded reveals the complexity of its security status.

Multiple layers of authority and the capacity for security creation exist evoking the features of a composite international system.¹⁶ Several analytical constructs defining the security qualities of the union are prevalent in the literature on the subject: it is seen as a security community, international society, and metaphorical “empire.” Moreover, in the historical process of the deepening and widening of European integration, the relative importance of individual security-related attributes of the actor has changed.

In the early stages of its development, the EU existed as an evolving security community defined by shared values, empathy, trust, and dependable expectations of peace. The security community concept was originally advanced by Karl Deutsch and others after World War II. Deutsch and his colleagues explored the potential of a regional political community to perform security functions through the development of

mutual sympathy and loyalties; of “we feeling,” trust, and mutual consideration; of partial identification in terms of self-images and interests; of mutually successful predictions of behavior. . . . [It involved] in short, a matter of a perpetual dynamic process of mutual attention, communication, perception of needs, and responsiveness in the process of decision making.¹⁷

A widely held proposition is that the history of the European Union represents a security community which continuously extends the zone of peace in Europe. The eastward enlargement is currently the principal mode institutionalizing this process. Enlargement alone, however, is problematic. It creates divisions between members and nonmembers with major sociopolitical and security implications. The integrated core is a configuration defined by shared values, norms, and peaceful relations—an island of “society” within the broader anarchic international system.¹⁸

An alternative conceptualization of the union is that of a “developed international society, with many shared norms, rules and institutions coordinating, constraining, and facilitating relationships among its members.”¹⁹ The social aspect of the relationship contrasts with the “asocial” or “unsocialized” world outside. As Barry Buzan points out, the balance of threats and vulnerabilities pertaining to this environment is much more dynamic, uncertain, and unpredictable than the complex of relations among the members. Although a security dilemma within the community is nonexistent, specific threats of coercion, imperial imposition of values, or a relative weak-

ening of the international position of outsiders enhances their vulnerability and, accordingly, their insecurity.²⁰ To offset such external pressures, the society extends certain standards of behavior toward these outsiders, the nonmembers in its proximity. The process of socialization creates a system of hierarchical relationships, characterized as dependence of the periphery and dominance of the core. The configuration acts as a net producer of security due to the way in which the qualities of the asymmetry create order. The core attracts and dominates the periphery. Portions of it gradually adhere to the core. New concentric circles of states now become the immediate periphery and an object for providing security. The process continuously repeats itself.

Since the end of the cold war, the EU has been confronted by a similar challenge: the necessity to maintain European order by securing the outlying periphery. The stabilization of what is now commonly called "the Wider Europe" emerged as a major mechanism of security creation inseparable from its eastward enlargement and an illustration of the security-oriented character of the process. Enlargement created tiers of cooperative systems outside the EU's membership base. Ole Wæver contends that as a result of the EU's long-term enlargement to the east, the post-cold war European order resembles an imperial structure—a metaphorical benevolent empire.²¹ Similarly, Robert Cooper refers to Europe's contemporary order as a postmodern imperial configuration in which security is created not by a horizontal collective system but by the most capable regional players, through external verification and intervention transcending state sovereignty.²² In Europe's case, the creation of order is dominated by a new voluntary cooperative imperialism exercised by the advanced democratic states through imposition of standards of good governance and protection of human rights. The EU is the leading representative of a particular type of liberal imperialism, the "imperialism of neighbors." The latter secures the core from threats of misgovernment, ethnic violence, crime, and terrorism in the periphery by intervention, election monitoring, and administrative, legal, and economic assistance.²³ The empire concept, however, cannot by itself serve as an adequate conceptualization of the EU. It reveals significant aspects of its external security posture as an open, hierarchical defense system. Internally, institutional evolution has consolidated its community features through the development of a common external

domain and foreign policy. The institutions, processes, and methods of creating security suggest that the EU is an independent and meaningful actor, more complex than a security community, an international society, or a benevolent empire.

The EU Security Domain and Interests

Although not directly stated in the founding Rome Treaty (1957), the EU's security dimension has been omnipresent. During the cold war, security in Europe was maintained by two principles: externally, by a balance of power produced by superpower rivalry, and, internally, by a neofunctionalist logic within the EU. The security profile of the union was at best implicit, determined by its dichotomous situation. It benefited from the NATO security umbrella as the majority of its members were also members of the alliance and of the Western European Union. Internally, the EU successfully reconciled power asymmetries within Western Europe. The strategic purpose of the union was to make geopolitical conceptions of security among its members obsolete by promoting economic and social relations beyond military and strategic interdependence. The EU performed security functions also by expanding a prospering, democratic political and economic system through successive rounds of enlargement in 1972, 1981, and 1986, respectively. This situation persisted after the end of the cold war with the 1995 accession of Austria, Finland, and Sweden. In the absence of great power rivalry, the union initially assumed that its security-building model would be adequate to the objectives of a stable and predictable European order.

A demand-driven reorientation of its capacity to create security became necessary, however, when the end of the cold war changed the context of European relations. The end of ideological, military, and economic confrontation in Europe imposed a redefinition of the existing security infrastructure. The institutional division of labor providing for the external and internal security of the union became obsolete. Security provision by a defense alliance outside the EU was at odds with the diminishing levels of military threat. The deepening of integration and its growing membership base exerted considerable pressure toward the acceleration of the process in the political domain.

The EU first formulated its own security objectives in the Treaty on the European Union in Maastricht in 1992. In 1993, the Copenhagen

European Council developed the enlargement position of the union with respect to Eastern Europe by elaborating a set of political and economic criteria for membership.²⁴ The simultaneous timing of these developments can be explained by the necessity of reintroducing a security rationale in integration under conditions of changed system polarity. The consolidation of the EU's security domain since 1993 and its geographic expansion to the east evolved as two simultaneous, intertwined institutional processes.

Historically, the concretization of an EU security interest can be summarized along the following directions and stages:

1. Provision of security among members in a nonwar, cooperative relationship toward a dynamic internal/external complex of security relations sustained by geographic expansion—since the mid-1990s, in particular, in the EU's eastward enlargement;

2. Evolution of a security domain under the EU CFSP;

3. Expansion of a security agenda in which military security decreases and threats of international crime, economic destabilization, migration and human rights issues, cross-border environmental pollution and nuclear safety acquire a security profile;²⁵

4. Since 1999 (the Kosovo campaign), and especially since September 11, 2001, a trend toward strengthening the direct security rationale of integration by means of increased defense preparedness and military capabilities.

Since the end of the cold war, the EU's security interest has evolved from implicit to direct formulation. It is the result of granting security status, or the "securitization," of humanistic and democratic values and the rule of law.²⁶ The CFSP is a combination of development, trade, humanitarian, and crisis-prevention policies. It is based on security objectives such as the safeguarding of "common values, fundamental interests, independence and integrity of the union in conformity with the United Nations Charter," the preservation and strengthening of international peace and security, the consolidation of democracy and the rule of law, and respect for human rights and fundamental freedoms.²⁷ The EU has favored an approach to security by foreign policy means, aimed at the promotion of democracy and civil values. It is maintained by dialogue and asymmetrical negotiation in the EU's external relations and internal compromises to

preserve consensus in decision making. The CFSP constitutes also a treaty-based anchor for the implementation of a European Security and Defense Policy (ESDP), expected to develop as the "progressive framing of a common defence policy, which might lead to a common defence."²⁸ The strategic posture of the EU was also significantly developed by the European Security Strategy (ESS). The strategy was precipitated by and formulated as a response to the impasse in the CFSP during the Iraq campaign (2002–2003). It affirms the strong strategic interest of the union in the effective promotion of its core values. The ESS outlines the international security position of the EU as a global actor and a frontrunner in the international system.²⁹ It sets forth the principle of effective multilateralism as a cornerstone of its foreign and security policy. This commitment is to be maintained by action-oriented initiatives, policy dialogue and partnerships with the UN, and mutual reinforcement between the existing bilateral and multilateral policies.

Four areas in the institutionalization of the EU's security domain are central to its definition as a security actor. First, the CFSP is a tentative framework for the progressive development of security planning and problem solving—that is, it increasingly performs government-like functions at the regional level. Policy centralization takes place through the elaboration of common strategies, common positions, joint actions, and systematic cooperation in the conduct of foreign policy. Such policy instruments constitute the EU's capacity to affect the systemic conditions for the creation of order in Europe.³⁰ Second, the member states decide individually on the implementation of common security policies. Third, the EU acknowledges its secondary or complementary position in defense matters vis-à-vis NATO. Fourth, in the area of the armaments and defense industry, the union gives priority to functionalist principles by increasingly resorting to specialized agencies for defense procurement, planning, and strategic studies.³¹ The intergovernmental character of CFSP has so far prevented the union from addressing security exclusively through actor-based approaches involving power, capabilities, or commitments. Its security relevance is maintained by process variables: asymmetrical negotiation, cooperation initiatives, and governance. The eastward enlargement, arguably, represents a collective attempt to put them into operation.

The EU's Security Interests in Enlargement

The security goals of the union in post-cold war Europe were not exclusively related to Eastern Europe. East European stability was significantly affected by EU integration due to Germany's new role in Europe. The reunification of Germany restored conditions similar to a classic security dilemma in Western Europe. The two issues—the German question and geographic expansion—emerged as indivisible. The eastward enlargement was upgraded from a long-term to an immediate EU objective because of the “renewed” German question in European security. Such an interpretation of the union's enlargement strategy remains largely underestimated in the enlargement discourse.

Germany's reunification was the first major redefinition of the regional power structure since the end of the cold war that produced a new center of gravity in the regional system.³² Unification took place against the background of national and ethnic divisions and political instability to the east and enhanced the German interest in Eastern Europe.³³

Prior enlargements had altered the geopolitical balance within the EU with no external implications, as the union had little independent weight in the regional distribution of power. However, internally, ever since the accession of the United Kingdom, enlargement had served as a dynamic reconfiguration of the EU power structure. It produced a complicated multilateral bargaining process based on a sustained Franco-German consensus.³⁴ The practice of bilateral political coordination, partnership, and rebalancing between France and Germany continued throughout the 1980s. An increasing assertiveness on the part of Germany became exemplary as it sought to balance the increasing weight of Southern Europe as a result of the 1981 and 1986 EU enlargements.³⁵

By the mid-1990s, the fourth enlargement (including Austria, Finland, and Sweden) reinforced the North and Central European dimension within the union and tilted the balance entirely to Germany's advantage. Germany sought to consolidate its position as a Central European power, rather than as an eastern border of a union still confined in the West. Such considerations opened up the issue of a future Polish membership. At several occasions, Chancellor Kohl emphasized that the Oder-Neisse line should not remain the EU's eastern border.³⁶ German unification thus set the EU's foreign policy agenda in the direction of a continued eastward enlargement.

Despite the reemergence of the German question in Europe, security was not a leading rationale in the European integration project of the 1990s. The EU had established its security domain to serve nonmilitary and foreign policy objectives, allegedly in accordance with the demise of the cold war alliance structure in Europe. As a result, the union did not directly address the security concerns of the Central and East European countries (CEECs) within the logical supply-and-demand framework. Its enlargement strategy was defined by two simultaneous processes: (a) economic and institutional assistance to the democratic transformation of Eastern Europe with a view of ensuring its future EU membership, and (b) deepening of integration by institutional reform to prepare for enlargement.

Such premises explain why the geopolitical and security-related rationale of the Eastern enlargement was not *a priori* explicitly defined. It entered European public discourse in parallel to the increase of violence in the disintegration of former Yugoslavia. The stabilizing impact of the union over the political and security conditions in “the Wider Europe” unfolded in a reactive, rather than proactive manner. The lag in providing a forceful response to interethnic conflict negatively affected its creditworthiness as a security actor.

The EU's security concerns in enlargement emerged out of several premises. The development of its security domain inevitably created insiders and outsiders, resulting in political and societal insecurity both within the core and the outlying periphery. The eastward enlargement was perceived as a compromise with the attained level of integration. The EU's governance and border systems were extended to include countries with lower capacity to withstand market pressures and transnational security challenges.³⁷ Enlargement was also a mechanism of reducing instability outside the core by reducing the latter's exposure to external threats and by projecting democratic values and political stability. The balance between strategic benefits and risks suggests that the EU had substantial security interests in the eastward enlargement.

A long-term enlargement objective was stated for the first time in the Europe Agreements concluded with the Central and East European countries during the period 1991–93. The logic behind this decision was that a persisting instability to the east would be more threatening to the coherence of the union than the problematic

diversity in the political and governance systems of the future members. The EU declared the determinants of its enlargement policy toward Eastern Europe at the Copenhagen European Council in December 1993.³⁸ It set forth the following political and economic criteria for membership: democracy, rule of law, respect for human rights, a market economy, and institutional capacity to implement the relevant EU legislation prior to membership. The Presidency Conclusions of the Copenhagen Council did not include an explicit statement of security interests, resources, or capabilities relevant to the process. At this stage, enlargement was expected to create positive external security implications but no direct security outcomes. The progressive advancement of an EU security interest took place later, in the wake of the Kosovo crisis. Its reconceptualization may be interpreted as an instance of change in the security rationale of integration produced by the need to generate spillover from the economic domain to an emerging European political union.

ENLARGEMENT AS A NONTRADITIONAL METHOD OF SECURITY CREATION

The European Union cannot and should not try to project stability into the new democracies, including all of the Balkans, by stealth bombers and guided missiles. The notion in itself is absurd and brings us back to the logic of the terror balance. What is needed is a European internal security order that can control civil disorder and combat terrorist attacks which might otherwise escalate into suppression of minorities or acts of "ethnic cleansing."³⁹

The eastward enlargement developed into a significant process of creating security for the EU core by transferring its external eastern border further away and by contributing to the political stabilization of Eastern Europe. The disintegration of former Yugoslavia underlined the security relevance of domestic political processes to security relations at the regional level. By the late 1990s, the EU's enlargement strategy toward Eastern Europe had consolidated into three consistent frameworks, which only recently achieved mutually reinforcing effects. First, with respect to the Central and East European countries, candidates since the mid-1990s, the EU pursued a nuanced enlargement strategy involving ever enlarging tiers. The Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, and Slovenia became EU members in 2004. Bulgaria and Romania will join the union in 2007. Turkey and Croatia

have commenced accession negotiations in 2005. Second, the EU established itself as an active participant, host, and initiator to a wide range of international conflict resolution measures in former Yugoslavia. The current EU strategy toward the Western Balkans considers enlargement toward the region a long-term priority. Third, and parallel to enlargement, the union developed a network of agreements with the countries from the Wider Europe and the Mediterranean with significant geopolitical and stabilization effects.

The EU enlargement mix fulfills security objectives in all three frameworks. It serves as an algorithm comprised of: (1) conditionality, or the formulation of explicit criteria for the economic and political performance of the EU's partners, whose fulfillment is a condition for their continued and closer relationships with the union; (2) externalization of the system of EU governance toward the future members, and (3) military capacity for direct intervention. Although differentiated in temporal and substantive terms, the enlargement strategy has the implications of unilateral measures applied to systems outside the union membership base. The very mechanism of enlargement, therefore, displays the characteristics of a core/periphery relationship in which the core imposes acceptable parameters of behavior on the outlying periphery. At the same time, the EU acts as an anchor of stability and a standard of reference for the democratic reforms in the entire region of Eastern Europe.

Central and Eastern Europe: Security Creation through Conditionality and Policy Externalization

The most elaborate and comprehensive EU enlargement strategy was implemented in regard to Central and Eastern Europe. As a result of a ten-year period of rapprochement and adjustment to the principles and norms of EU governance, significant subsets of countries from that region already constitute an integral part of the union. The enlargement strategy toward Eastern Europe has emphasized the logic of conditionality and fulfillment of preliminary criteria for membership. An approach stressing conditionality suggests that the primary objective of the process was the security and cohesion of the core and not of the periphery. The EU became an "external anchor" for the democratic transformation of Eastern Europe by providing standards of compliance and norms of governance. The CEECs undertook comprehensive

adaptation of their domestic political and economic systems, the essence of which was complete internalization of the attained level of integration in Western Europe.

The formulation of political criteria for membership was consistent with the aggregate community security interest. It did not correspond, however, to the existing security demand in Eastern Europe. In the absence of direct security guarantees as a part of the membership "package," the logic of threshold criteria and preconditions reinforced perceptions that East European security concerns should be dealt with outside the EU. NATO's enlargement mechanism, especially the Membership Action Plans in place since 1999, demonstrated exactly the opposite logic—a participatory environment conducive to membership.⁴⁰ By its sectoral specialization in defense and military restructuring, the alliance aspired to address the security vacuum of post-cold war Eastern Europe. Regional security demand reinforced NATO's rationale for a continued existence and undermined the EU's importance as an independent security actor.

Following recommendations from the European Commission, the Luxembourg meeting of the European Council of December 1997, opened accession negotiations with Cyprus, the Czech Republic, Estonia, Hungary, Malta, Poland, and Slovenia. The Helsinki European Council (1999) extended enlargement toward Bulgaria, Latvia, Lithuania, Romania, and Slovakia. The economic and political criteria, detailed in thirty-one chapters of EU law, known as the *community acquis*, became an anchor for the candidates' strategic adaptation to EU-based governance methods and policies. The outcomes of this process consolidated enlargement as a comprehensive "externalization" of integration. Since 1998, all annual *Regular Reports* of the European Commission on the candidates' progress toward accession have stated that the countries fulfill the political criteria for membership—that is, they have achieved "political stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities."⁴¹

The principle of conditionality in the security domain refers to the candidates' adoption of the existing provisions under CFSP.⁴² The *acquis* in the area of external security and foreign policy covers the common strategies, common positions, and common actions of the EU, as well as ad hoc declarations on issues of international importance. In line with the provi-

sions of the CFSP, the candidate countries participated in the development of European Security and Defense Policy in an "EU + 15" format.⁴³

Based on rigorous monitoring of the membership criteria, increased financial support by diverse pre-accession funds, as well as broadened geopolitical considerations, enlargement gradually acquired a systemic value. It was instrumental to the objective of reinforcing the EU's political and security status. The Berlin European Council of 1999 set the financial framework of enlargement. The Helsinki Council recognized Turkey as a candidate country. *Agenda 2000* established the elaborate financial mechanism of the spending policies of the union and de facto incorporated enlargement into integration. The overall stabilization effect of such measures was obvious.⁴⁴ The European institutions undertook parallel consistent efforts to preserve the attained level of integration in the core, gain public support for enlargement, and enhance the EU's role in the political stabilization of the Wider Europe (especially in the context of stagnant security conditions in the Western Balkans). In 2004, the EU opened the eastward enlargement toward Turkey.⁴⁵ The accession negotiations will replicate the mechanism of the East European enlargement on an unprecedented geopolitical, economic, and temporal scale. Enlargement now, arguably, represents the true modus operandi of integration.

Despite a consistent policy commitment, a comparative assessment of the EU's effective capacity to positively influence European security indicates that the union lagged behind in providing security projection beyond its borders and the fulfillment of broader regional stabilization objectives. Demand for military security in the Western Balkans presented NATO with a leadership position in European security through direct military intervention. The EU's stabilization mechanism remained confined to enlargement. The countries outside the enlargement strategy, as the experience of the Western Balkans throughout the 1990s indicated, neither benefited from nor contributed to the security capacity of the core.

The development of European Security and Defense Identity (ESDI) within NATO, the 2002 agreement on the use of NATO military assets in EU-led security-related operations, and the NATO-EU Agreement on the Security of Information became major initiatives, these upgraded the security profile of the union

and enhanced its visibility and effectiveness in regional defense and security cooperation.⁴⁶

Western Balkans: Intervention and Progressive Enlargement

The second type of security provision through enlargement refers to the region of the Western Balkans. This enlargement model displays considerable differences from the conventional one. It is defined by high conditionality, a progressive long-term trend toward the externalization of EU policies, and direct military intervention for the purposes of peacekeeping and conflict resolution. The strategy fulfills two sets of functions. It operates as a response to security demand and as a process enhancing the external security of the union by preventing the spillover of instability.

Integration was not the initial common preference for solving the security issues of the Western Balkans. An extension of the West European institutional framework as a mechanism of creating dependable expectations of peace was not regarded as a feasible, valid, or acceptable model for that region. An EU integration strategy was formulated considerably later than the one valid for East Central Europe. Throughout the 1990s, the Western Balkans remained outside the EU enlargement discourse. The union was an active participant in the UN-led international efforts to bring conflict resolution to the region, but not an independent actor in the process. The initial stages of the EU's involvement in the Balkans were accomplished by diplomacy and subsequently by peacekeeping. Its policy tools ranged from delegations, multilateral intermediation, political initiatives, a combination of multilateral and bilateral approaches, arms embargoes, trade sanctions, and so forth. A regional approach was introduced under the Royaumont Process for Stability and Good Neighborliness in South East Europe and subsequently incorporated into the EU CFSP.⁴⁷

It has been largely acknowledged that the effectiveness of such measures was minimal. Policy coordination under CFSP was ad hoc and fragmented. The EU's political initiatives were duplicated or contradicted by bilateral action.⁴⁸ The union first sought to project stability to the region by commencing accession negotiations with the candidates from the Eastern Balkans, Bulgaria and Romania, in the wake of the Kosovo crisis. Consequently, membership was not prioritized as a stabilization mechanism for the entire region. The Wider

Europe concept was developed instead, in line with the view that regional integration had significant implications for the relations between the integrated core and third countries.⁴⁹ Such an approach regarded the Western Balkans in the context of the EU's enlargement to Eastern Europe and continued to isolate the region from the reunification of the European continent. The Balkans' relevance to EU integration was defined in terms of direct threats of destabilizing flows and risks for the security of the EU's external borders.

Persisting instability in the region brought about efforts to streamline the security posture of the union by a capacity to address difficult security issues. In December 1999, the European Council decided to create an EU Rapid Reaction Force of sixty thousand military personnel deployable within sixty days and kept in operation for at least a year.⁵⁰ To maintain political control and strategic direction during crisis, the European Council, meeting in Nice in December 2000, created new permanent political and military structures: a Political and Security Committee (PSC), European Union Military Committee (EUMC), and European Union Military Staff (EUMS) composed of military experts seconded to the Council Secretariat by the member states. The institutionalization of the EU's military capabilities, a demand-driven process by itself, enhanced the centrality of the integrated core in dealing with security contingencies outside its territorial confines.

In 1999 the EU redesigned its regional approach toward the Western Balkans by connecting political conditionality to economic and financial mechanisms. The Stabilization and Association Process (SAP) was extended to Albania, Bosnia and Herzegovina, Croatia, Serbia and Montenegro, and Macedonia as a continuation of the integration model valid for Eastern Europe.⁵¹ The Thessaloniki European Council, meeting in June 2003, announced a new integration strategy toward the region.⁵² The EU thus opened the opportunity of membership for the Western Balkans even prior to the conclusion of its first eastward enlargement.

The integration strategy marks a significant policy innovation. Security provision through peacekeeping (individually and in cooperation with international institutions) has been reinforced by the classical integration rationale, the creation of positive externalities. A major objective of this new stage of the EU's involvement in the Western Balkans is to contribute to nation-building beyond territoriality, through

the paradigm of integration. The model draws on three domains: confidence-building, conditionality and policy externalization, and direct intervention. The creation of integration partnerships is the main institutional instrument in the process. The second component is that of enhanced political cooperation with the EU, directly linked to the externalization of its policies in the area of security and foreign policy. The recommendation of the European Commission in that respect is explicit: "The Western Balkans countries should be invited to associate themselves with EU declarations, common positions, and other documents of the CFSP."⁵³ The integration process thus replicates the mechanism of the conventional enlargement by adjusting the foreign policy priorities of the countries in the Western Balkans to those of the EU. The qualitatively new nature of the enlargement model toward the Western Balkans is revealed by the new political status of peacekeeping, which—it may be argued—has become an integral part of the process. International peacekeeping efforts in the Western Balkans are being "Europeanized."

Since 2003, the EU's direct intervention consolidated the following actions: monitoring of political stability (in Albania, Macedonia, Bosnia-Herzegovina, and Kosovo); law enforcement (in Macedonia and Bosnia-Herzegovina); and full-scale peacekeeping (in Macedonia and Bosnia-Herzegovina). In addition, the EU countries continue to participate in the International Kosovo Force (KFOR) in their capacity as NATO members.

The EU Police Mission in Bosnia and Herzegovina (EUPM), operative since 2003, follows from the UN's International Police Task Force. EUPM is the first ESDP operation with an initial three-year mandate.⁵⁴ Similarly, the police mission *Proxima* contributes toward police reforms and domestic political stability in Macedonia. Its mandate is to monitor, mentor, and advise local police, and to promote European standards of policing. The more complex missions, those of direct peacekeeping, are the *Concordia* mission in Macedonia (since 2003) and the *Althea* mission, which took over the international NATO-led Stabilization Force (SFOR) in Bosnia-Herzegovina in 2004. The two missions constitute the first deployments of the European Rapid Reaction Force.⁵⁵ In addition, the EU maintains a broader Monitoring Mission in the Western Balkans (EUMM), which extends the original 1991 monitoring mission of the European Communities. The

mission is headquartered in Sarajevo and operates in Bosnia-Herzegovina, Croatia, Serbia and Montenegro, Albania, and Macedonia.

The region of the Western Balkans demonstrates the positive security effects of regional integration in a novel way. The increasing institutionalization of its relationship with the EU creates a hierarchical system conducive to the automatic creation of order. In contrast to the original processes of integration of the 1950s, the formation of dependable expectations of peace in the Western Balkans is not likely to occur through horizontal multilateral cooperation at the subregional level. The individualized integration partnerships will develop a network of multiple hierarchies, thus making repetitive claims to sovereignty and self-determination obsolete. Such trends conform to the model of the cooperative imperial structures of order creation in Europe as conceptualized by Ole Wæver and Robert Cooper. The case study of the Western Balkans suggests that the EU's progressive enlargement has had significant impact on the quality of the regional security system.

Beyond Enlargement: Stabilization of the Periphery

The EU's increasing role in the Wider Europe emerged as a logical extension to the eastward enlargement. The unprecedented scope and the divisive character of the process, continuously differentiating between members and nonmembers, alerted the union that its strategies might create uncertainty, competition, and a greater exposure to threats for countries outside integration—predominantly states with weak institutional capacity to withstand such threats. Consciousness that such trends had materialized transformed the EU's enlargement concept from "enlargement as admittance of new members" into "enlargement as extension of the core," implying a major reconceptualization of its regional approach. In its 1999–2000 *Regular Reports on the Progress of the Candidate Countries toward Accession*, the European Commission "situated" enlargement within the broader regional environment. The reports spoke of the "context of enlargement" and examined the relations between the union and its neighbors.⁵⁶ Geographic expansion was no longer a process of granting membership to eligible candidates. It became a mechanism for "positioning" EU integration within the Wider Europe region. The union was conscious of its responsibility to prevent ethnic conflict, the dif-

fusion of new threats, and further fragmentation—or the “Balkanization” of Eastern Europe. It sought to extend a politically stable and cooperative environment beyond the candidate members, toward third countries. As one observer noted,

The enlargement process is vital to securing political stability, democracy, and respect for human rights on the European continent as a whole. It creates opportunities for growth, investment and prosperity, which will benefit not only current and future member states of the EU but also the wider international community.⁵⁷

Enlargement was redesigned to secure good neighborly relations with the countries from the outlying periphery. In addition to the Western Balkans, the countries from the Wider Europe became consistently drawn into institutional cooperation with the EU and its stabilization mechanism. The motives for the creation of such structures were mostly security-inspired.⁵⁸ The Wider Europe concept became a prominent feature of the EU foreign policy and security domain. It assumed significant functions in regard to conflict resolution and political stabilization.

The major policy instrument which expands the EU's security role beyond enlargement is the European Neighborhood Policy (ENP). The policy complements enlargement by a distinct model of good neighborly relations creating a ring of friends around the EU borders.⁵⁹ The ENP functions as a system of foreign policy, economic, and security instruments and promotes standards of good governance, the rule of law, and respect for human rights in the neighboring countries. Although inspired by and closely related to enlargement, the focus of the policy are relations which do not “in the medium-term, include a perspective of membership.”⁶⁰

The institutional framework of this policy comprises two key mechanisms: joint action plans and a financial mechanism, the European Neighborhood Instrument.⁶¹ The joint action plans considerably rationalize the relationship between the EU and the majority of the remaining countries of Eastern Europe and the Mediterranean region by contextualizing the process into a series of bilateral agreements. The latter enhance the role of the union in identifying the priorities and principles of cooperation. The existing association agreements and the joint action plans are developed on the basis of joint ownership. The EU gradually opens a possibility for its partners to acquire a stake in the internal market through trade liberalization,

political dialogue, and exchanges in key areas relevant to the EU's internal and external security, including the fight against terrorism.

The security implications of the ENP are significant. It introduces a meaningful distinction between issues of proximity and those pertaining to enlargement. The policy encourages participation through the principle of joint responsibility with respect to peace and security in the neighborhood region, border management, cooperation in judicial matters, the energy sector, and social cohesion. As with enlargement, it applies enhanced conditionality by monitoring the partners' compliance to the attained level of policy dialogue under previous frameworks. Its focus on conflict resolution, security, and development creates a unique cooperative context for the eastward enlargement to proceed. As a proactive forward-looking approach, the policy is likely to improve the predictability and problem-solving capacity of the existing regional security arrangements. As the ENP has expanded to cover also the EU's relations with the Mediterranean and the Middle East, its general geopolitical effect may be expected to increase.

IN LIEU OF A CONCLUSION: THE SECURITY BALANCE OF THE EASTWARD ENLARGEMENT

The chronology of the eastward enlargement and the increasing number of countries now acceding to the EU suggest that the process has consequences for the enhancement of political stability in Eastern Europe (see table 1). Its merit-based approach established a concentric-circles structure in Europe in which the overall political, strategic, and economic importance of the union has increased. Enlargement thus exemplifies a system of core-periphery relations, which underlines the centrality of the core. More important, through commercial, cultural, and other issue linkages, the network of principled relations is extended beyond the countries directly concerned with EU membership. Enlargement is therefore more complex than institutional expansion. It is a multidimensional process of systemic value for European regional order, whose individual components span across Central and Eastern Europe, the Western Balkans, Turkey, and the Wider Europe. The progressive institutionalization of relations with a large and diverse group of countries has significant implications for increasing the predictability and coherence of the regional security order.

TABLE 1. The EU's Progressive Enlargement Strategy

Eastern Europe	Western Balkans	Turkey	Wider Europe
1991–1993	1991	1959	1995
Europe agreements	Guidelines on the recognition of new states	Application for associate status	Euro-Mediterranean partnership
1993	1991	1963	1997
Copenhagen Criteria	EC monitoring mission for the Western Balkans	Association agreement	Partnership and cooperation agreements with CIS
1994–1996	1996	1964	1998
Applications for membership	Royaumont process/regional approach	Customs Union agreement	First communication on neighborhood relations
1998	1997	1987	1999
Accession negotiations I: Czech Republic, Estonia, Hungary, Poland, Slovenia	Association relations commenced	Application for membership	Common strategies: Russia and Ukraine
1999	1999	1995	2001
Accession negotiations II: Bulgaria, Latvia, Lithuania, Romania, Slovakia	Stability pact for South-East Europe	Customs Union completed	Common strategy: Middle East
2002	1999	1999	2003
Tier one completes negotiations: Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Slovenia	Stabilization and Association Process (SAP) /CARDS	Candidate status granted	Wider Europe neighborhood
2004	2003	2002	2004
Eastward enlargement (first wave): Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Slovenia	Thessaloniki Council: EU commitment to the integration of the Western Balkans	Copenhagen Council decision on accession negotiation eligibility	European neighborhood policy strategy paper
2005	2003	2004	2007
Tier two accession treaty: Bulgaria, Romania	Peacekeeping mission <i>Concordia</i> ; police missions EUPM (Bosnia-Herzegovina); <i>Proxima</i> (Macedonia)	Accession decision	New neighborhood instrument
2007	2004	2005	Beyond 2007
Eastward enlargement (second wave)	Mission <i>Althea</i> (Bosnia-Herzegovina)	Accession negotiations	Enhanced partnerships and association

The multidimensional matrix in table 1 maps out the key institutional and policy instruments in the enlargement process. It also demonstrates the historical pattern of integration: the progressive institutionalization of interdependencies that the EU's eastward enlargement has come to represent and that lead to the increasing centrality of

European integration. In substantive terms, enlargement is a process of redistribution of rights and responsibilities among members, partners, and subregional constellations in Europe. It is characterized by a transfer of obligations related to security and border management to the acceding countries. Responsibilities of major security

consequences are imposed on states with comparatively limited institutional capacity. Security in the core might be threatened by poorly protected external borders in the east. Such methods for the creation of security through weaker institutions and states constitutes the first major source of instability due to enlargement. Destabilizing changes in the established patterns of regional transactions represent a second source of instability.

The EU's enlargement creates new divisions at the subregional level, encouraging new patterns of trade, investment, migration, and communication. Specific border controls and visa requirements have already introduced the first delineation between the eastern and the western part of the Balkans and vis-à-vis Turkey, Russia, Ukraine, and Moldova, among others. The divisive nature of such policies is obvious. Heather Grabbe contends that the EU border policies in enlargement contradict the union's security goals for Eastern Europe. The new borders affect the domestic politics and foreign relations of countries outside the immediate scope of EU influence.⁶²

The implications of the eastward enlargement for the sustainability of this regional configuration are, therefore, controversial. On the one hand, enlargement grants new momentum to integration. It reinforces the sovereignty of the new borderline states by enhancing their capacity to maintain law and order, political stability, and legitimacy. On the other, it has emerged as a source of security challenges leading to substantial resource relocation and institutional restructuring. The process unfolds in absolute and in relative terms. The destabilizing effect of borders is not confined to territorial division, power disparities among regional neighbors, or the geopolitical configuration (the recurring question of where Europe ends). The less visible impact is that of competition and isolation among neighboring states with different institutional membership. The continued implementation of an all-inclusive enlargement strategy and neighborhood policy, therefore, remains warranted.

The long-term character of the process is designed to assure the continuity of EU integration. Its appropriate conceptualization is a positive security externality created by reunification, democracy, and the predictability of relations based on democratic principles. The progressive formulation of the EU's security interests in enlargement developed in a contradictory manner due to several factors: diverse

security threats, geographic expansion, an accommodative security agenda and, at the same time, a limited response mechanism to address military threats and insufficient enforcement capacity. Within this framework of factors, the EU's status as a security actor should be measured primarily in terms of its influence over the system of regional governance in Europe. In the Western Balkans, the EU slowly emerges as a legitimate embodiment of the European security order. Its integration strategy for the entire Balkans region represents a significant source of security provision by progressively incorporating the international peace and conflict resolution strategies into the integration process. The fact that the EU policies have had to be reformulated and adjusted in favor of integration is indicative of the limited capacity for the creation of order through horizontal patterns of international cooperation. The long-term nature of enlargement, both toward the Western Balkans and Turkey, contributes to the gradual transformation of regional geopolitics. It demonstrates the open-ended character of integration and its capacity through process variables to affect security outcomes.

Security demands lead to the extension of incentives and policies toward nonmembers. The relationships of "Good Neighborliness" generate significant geopolitical stabilization beyond EU's borders. They also attract nonmembers and increase their dependence on the EU through conditionality, benchmarking, and institutionalization. As all three concepts imply higher standards of order and government, they illustrate the security relevance of enlargement. The process may be approximated to an extension of the value system of the Western security community and a significant reordering of European relations into a hierarchical structure. The system is a net producer of security in non-conventional terms, irrespective of the incompleteness of the union as a security actor in terms of strategic capabilities. The security and overall geopolitical effect of enlargement through predictability, political stabilization, and democratic political institutions is therefore more significant than the EU's military status suggests.

NOTES

1. Erik Holm, *The European Anarchy: Europe's Hard Road into High Politics* (Copenhagen: Copenhagen Business School Press, 2001), 268.

2. The designation "European Union" was introduced in the Maastricht Treaty of 1992 to replace the

term "European Economic Community" (EEC), the international organization created under the Treaty of Rome (1957). The Maastricht Treaty renamed the EEC, together with the European Coal and Steel Community, and Euratom, into the European Communities (EC), the first pillar of the European Union. In order to maintain continuity, the terms "European Economic Community" and "European Union" will be used in the text interchangeably.

3. The creation of an internal area of freedom, security, and justice is the object of the Justice and Home Affairs pillar of EU integration created by the Treaty on European Union, Maastricht, 1992.

4. Eight Central and East European countries, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, and Slovenia, became EU members in 2004 (together with Malta and Cyprus). Bulgaria and Romania will join the union in 2007. Croatia and Turkey are scheduled to open accession negotiations in 2005. The countries in the Western Balkans are Albania, Bosnia-Herzegovina, Serbia and Montenegro, and Macedonia. The Wider Europe perimeter includes Belarus, Moldova, Russia, Ukraine, the countries from the Southern Caucasus, as well as those from the Mediterranean (including the Palestinian Authority), participants in the Barcelona Process (1995). See European Commission, "On the Commission Proposals for Action Plans under the European Neighborhood Policy (ENP)," *Communication from the Commission to the Council*, COM (2004) 795 final (Brussels: December 9, 2004).

5. See Ole Wæver, "Integration as Security: Constructing a Europe at Peace," in *Atlantic Security: Contending Visions*, ed. Charles Kupchan, 47–63 (New York: Council on Foreign Relations, 1998).

6. According to Berglof and Roland, the EU is a major source of material and normative influence for the process of democratic transition in Eastern Europe. See Eric Berglof and Garreth Roland, "From 'Regatta' to 'Big Bang'?—The Impact of the EU Accession Strategy on Reforms in Central and Eastern Europe," *IMF Working Paper* (Washington: International Monetary Fund, 2000).

7. Anders Björner, "Reflections of Subregionalism and Wider European Security," in *Building Security in Europe's New Borderlands: Subregional Cooperation in the Wider Europe*, ed. Renata Dwan, 11–18 (East-West Institute, Armonk, NY: M. E. Sharpe, 1999), 17. It should be noted that the author evokes a possibility that the process may create negative security externalities.

8. See Ronald Jepperson, Alexander Wendt, and Peter Katzenstein, "Norms, Identity and Culture in National Security," in *The Culture of National Security: Norms and Identity in World Politics*, ed. Peter Katzenstein, 33–75 (New York: Columbia Univ. Press, 1996).

9. Heather Grabbe, "Stabilizing the East while Keeping Out the Easterners: Internal and External Security Logics in Conflict" in *Migration and the Externalities of European Integration*, ed. Sandra Lavenex and Emek Uçarer, 91–104 (Lanham, MD: Lexington Books, 2002).

10. Javier Solana, "Mars and Venus Reconciled," Albert H. Gordon Lecture at the Kennedy School of Government, Harvard University, April 7, 2003, Document S0087/03, 5.

11. Definitional issues pertaining to the theory of regional security complexes and structural interdependence are discussed in Barry Buzan, *People, States and Fear: An Agenda for International Security Studies in the Post-Cold War Era* (New York: Harvester Wheatsheaf, 1991).

12. Brian Job, "Matters of Multilateralism: Implications for Regional Conflict Management," in *Regional Orders: Building Security in a New World*, ed. David Lake and Patrick Morgan, 165–91 (University Park, PA: Pennsylvania Univ. Press, 1997), 173.

13. Ibid., 166.

14. David Mitrany, *A Working Peace System: An Argument for the Functional Development of International Organization* (London: Royal Institute of International Affairs, 1943); and David Mitrany, *The Functional Theory of Politics* (London: Martin Robertson, 1975). Mitrany's works emphasize a functional approach to issue-specific domains in international cooperation and posit a consistent relationship between regional integration and security.

15. France and Germany signed the Elysée Treaty of Cooperation in 1963.

16. For a historically informed typology of international systems, see Adam Watson, *The Limits of Independence: Relations between States in the Modern World* (London: Routledge, 1997).

17. Karl Deutsch et al., *Political Community and the North Atlantic Area: International Organization in the Light of Historical Experience* (Princeton: Princeton Univ. Press, 1957), 36.

18. Hedley Bull defined "society" as a configuration of states bound by a degree of acceptance of common rules and institutions and one of the alternatives to the contemporary anarchic state system. Similarly, the author regarded regionalism as an approach to world order. See Hedley Bull, *The Anarchical Society: A Study of Order in World Politics* (New York: Columbia Univ. Press, 1995).

19. Barry Buzan and Richard Little, *International Systems in World History: Remaking the Study of International Relations* (Oxford: Oxford Univ. Press, 2000), 105. The term was used initially by Hedley Bull, *The Anarchical Society*, 254–55, 264–76; and Arnold Wolfers, *Discord and Collaboration: Essays on International Politics* (Baltimore, MD: Johns Hopkins Univ. Press, 1962), 241–42.

20. Buzan and Little, *International Systems in World History*, 281–82.

21. Ole Wæver, "Europe's Three Empires: A Watsonian Interpretation of the Post-Wall European Security," in *International Society after the Cold War: Anarchy and Order Reconsidered*, ed. Rick Fawn and Jeremy Larkins, 220–60 (London: Macmillan Press, 1996); and Ole Wæver, "Imperial Metaphors: Emerging European Analogies to Pre-Nation-State Imperial Systems," in *Geopolitics in Post-Wall Europe: Security, Territory and Identity*, ed. Ola Tunander, Pavel Baev, and Victoria Ingrid Einagel, 59–93 (London: Sage, 1997).

22. Robert Cooper, *The Post-Modern State and World Order* (London: Demos, The Foreign Policy Centre, 2000).

23. See Robert Cooper, 2002, "The New Imperialism," *Guardian (Observer)*, April 7, 2002. <http://observer.guardian.co.uk/print/0,3858,4388912-110490,00.html> (accessed November 2, 2004).

24. The Council Conclusions of the Copenhagen European Council (June 1993) laid out the principal requirements for the admission of new members valid to date: democracy, rule of law, human rights, protection of minorities, functioning market economy, and capacity to cope with competitive pressures and market forces within the union. The Copenhagen criteria serve as a standard of reference measuring the candidates' progress toward accession. See the relevant Annual Regular Reports of the European Commission 1998–2002 accessible through <http://www.europa.eu.int/comm/enlargement/negotiations/index.htm> (accessed August 8, 2004).

25. See Ole Wæver, "Societal Security: The Concept," in *Identity, Migration and the New Security Agenda in Europe*, ed. Ole Wæver, Barry Buzan, Morten Kelstrup, and Pierre Lemaître, 17–40 (New York: St. Martin's, 1993).

26. Ole Wæver "Securitization and Desecuritization," in *On Security*, ed. Ronnie Lipschutz, 46–86 (New York: Columbia Univ. Press, 1995).

27. European Union, "Consolidated Version of the Treaty of the European Union," *Official Journal of the European Communities* C 325/5, December 24, 2002, title 5, article 11 (1).

28. *Ibid.*, article 17 (1).

29. European Council, *A Secure Europe in a Better World: European Security Strategy*, December, 2003, <http://fiss-eu.org/solana/solanae.pdf> (accessed January 31, 2004); European Commission, "The European Union and the United Nations: The Choice of Multilateralism," *Communication from the Commission to the Council and the European Parliament*, (October 9, 2003), COM (2003) 526 final (Brussels: European Commission, 2003).

30. European Union, "Consolidated Version of the Treaty of European Union," title 5, article 14.

31. *Ibid.*, article 17 (1) through (3). A Resolution of the European Parliament (April 18, 2002) called for the creation of a European armaments agency and the extension of certain principles of the EU's common commercial policy and single market to integration in the defense industry. See European Commission, "Common Foreign and Security Policy," *Bulletin*, EU 4–2002, April 18, 2002, <http://europa.eu.int/abc/doc/off/bull/en/200204/p106004.htm> (accessed April 24, 2005). The Thessaloniki Council of June 2003 further underlined the functional approach to security and defense through the creation of a European Armaments Agency. See European Council, *Presidency Conclusions*, Thessaloniki, 2003, http://www.europa.eu.int/european_council/conclusion/index_en.htm (accessed August 21, 2003).

32. Jean-Marc Trouille, "France, Germany and the Eastwards Expansion of the EU: Toward a Common *Ostpolitik*," in *EU Expansion to the East*, ed. Hilary Ingham and Mike Ingham, 50–64 (Cheltenham, UK: Edward Elgar, 2002), see 51.

33. On Germany's geopolitical interest in EU expansion into Eastern Europe and the political significance of its renewed *Ostpolitik*, see Thomas Pedersen, *France, Germany and the Integration of Europe: A Realist Interpretation* (London: Pinter, 1998).

34. The special relationship between France and Germany was established by the signing of the Elysée Treaty of 1963. Irrespective of the coordination mechanism of European Political Cooperation

since 1970, the Franco-German partnership has remained the single most consistent source of leadership in the expanding European Union.

35. The first hints of a deteriorating relationship appeared in 1988 when President Mitterrand rejected Chancellor Kohl's proposal of a joint initiative toward the Soviet Union in which France was designated a junior partner position. Strong divergences reemerged on Yugoslavia and the Economic and Monetary Union. See William Hay, "Quiet Quake in Europe: The French and the Germans Divide," *Paper*, EU Integration and Enlargement Series (Philadelphia: Foreign Policy Research Institute, 2000), <http://www.nyu.edu/globalbeat/emu/FPRI1000.html> (accessed October 3, 2003).

36. Pedersen, *France, Germany and the Integration of Europe*, 189.

37. See David Long, "The Security Discourses of the European Union: A Functional Critique," in *New Perspectives on International Functionalism*, ed. Lucian Ashworth and David Long, 120–36 (London: Macmillan Press, 1999), see 127.

38. European Council, Conclusions of the Presidency, Copenhagen, June 21–22, 1993, SN 180/93 (Brussels: European Council, 1993). See also n. 24, above.

39. Holm, *European Anarchy*, 228.

40. The NATO Membership Action Plans were launched at the Washington Summit of the Alliance (1999) to help candidate countries in their preparations toward membership. See "Membership Action Plans," <http://www.nato.int/issues/map/index.html> (accessed May 4, 2005).

41. *Regular Reports of the European Commission*, 1998/2003.

42. All relevant EU guidelines posit that its security policy is compatible with NATO's defense objectives. For a discussion of CFSP, see <http://www.europa.eu.int/pesc/pres.asp?lang=en> (accessed May 18, 2003).

43. The "15+15" format of security cooperation includes the 15 EU members plus non-EU European NATO members and the EU candidates.

44. The Financial Perspective for the period 2000–2006 initially provided resources for six new members. Based on the recommendations of the European Commission, the financial framework was updated to include ten countries and made the 2002 accession decision of the Copenhagen European Council possible. On the role of financial issues in enlargement, see Gerda Falkner and Michael Nentwich, "Enlarging the European Union: The Short-term Success of Incrementalism and Depoliticization," in *European Union: Power and Policy-making*, ed. Jeremy Richardson, 259–82 (London: Routledge, 2001), see 265–66.

45. The discussion and modalities of Turkey's membership in the EU remain outside the scope of this study.

46. The establishment of ESDI within NATO was based on the understanding that the EU needed credible military forces (at the St. Malo Franco-British Summit of 1998). As a result, the European Council in Cologne in June 1999 agreed to give "EU itself the means and capabilities needed for the implementation of a common European Security and Defense Policy (ESDP). The role previously undertaken by the WEU was progressively

assumed by the European Union." See NATO, "NATO-EU Relations," *NATO Handbook*, 2002, <http://www.nato.int/docu/handbook/2001hb0403.htm> (accessed October 23, 2003).

47. See European Commission, press release, IP/00/65 (January 21, 2000), http://europa.eu.int/comm/external_relations/news/01_00/ip_00_65.htm (accessed December 28, 2003).

48. For example, at a critical moment of the Bosnian war in 1992, France negotiated a reopening of the Sarajevo airport and emergency aid to the city, under Serbian siege at the time, outside EU diplomatic channels. As the union had previously failed to achieve that, the French action demonstrated the limitations of joint EU efforts.

49. European Commission, "Wider Europe-Neighbourhood: A New Framework for Relations with Our Eastern and Southern Neighbours," *Communication from the Commission to the Council and the European Parliament*, COM (2003) 104 final (Brussels: European Commission, 2003).

50. European Council, "Presidency Conclusions Helsinki European Council" (December 10–11, 1999), *Bulletin* EC12/99 (Brussels: European Union, 1999).

51. Details of the Stabilization and Association Process are provided in European Commission, *Report from the Commission* COM (2002) 163 final (Brussels: European Commission, 2002), 4–7.

52. See General Affairs and External Relations Council, *Council Conclusions*, Luxembourg, June 16, 2003, http://www.europa.eu.int/comm/external_relations/see/gacthes.htm (accessed January 30, 2004).

53. European Commission, *Communication from the Commission to the Council and the European Parliament* COM (2003) 285 (Brussels: European Commission, 2003), 7.

54. See European Council, *Joint Action* 2002/210/CFSP, <http://www.ue.eu.int/eupm> (accessed January 30, 2004).

55. Details of the *Concordia* mission are available at <http://www.ue.eu.int/arym/> (accessed January 17, 2004). On the *Althea* mission, see European Council, Council Joint Action 2004/570/CFSP, *Official Journal of the European Union* L 252/10, July 28, 2004.

56. This section refers extensively to European Commission, *Regular Reports on Progress toward Accession, 1999–2000*, <http://www.europa.eu.int/comm/enlargement.htm> (accessed March 24, 2004).

57. European Commission, *Regular Report from the Commission on Progress toward Accession by Each of the Candidate Countries* (Brussels: European Commission, 1999), 2, http://www.europa.eu.int/comm/enlargement/report_10_99/intro/index.html (accessed October 3, 2003).

58. The EU adopted common strategies toward Russia and Ukraine in 1999. The TACIS program was originally designed for the period 1991–99 and extended within the 2000–06 financial framework. During the period 1997–99, the EU signed partnership and cooperation agreements with the former Soviet Republics in Eastern Europe and Central Asia.

59. See European Commission, "Wider Europe-Neighbourhood"; and European Commission, "European Neighbourhood Policy," *Strategy Paper: Communication from the Commission*, COM (2004) 373 final (Brussels: European Commission, 2004).

60. European Commission, "Wider Europe-Neighbourhood," 5.

61. The European Neighborhood Instrument is expected to become operational in 2007.

62. Heather Grabbe, "Stabilizing the East while Keeping Out the Easterners," 91–92.

Toward a Long-Range Energy Security Policy

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Events in recent decades have produced a broader definition of security.¹ The entry of phrases like “environmental security,” “resource conflict,” and “energy security” into the lexicon of security experts provides examples of this changing dialogue, but these concepts remain on the margins of the discussion for the most part. Where US energy policy is concerned, the debate generally has been limited to arguments that the United States must preserve its access to the oil reserves of the Middle East and Central Asia, and a vague sense that domestic energy supplies would be highly desirable. Cornucopian optimists continue to insist that oil will remain abundant and cheap for the foreseeable future, and indeed more concern is expressed over the unsavory character of governments in major oil-producing states than over the finite nature of the resources themselves.

The vagaries of oil politics (and the ecological problems raised by carbon emissions) are indeed serious problems, and they are not entirely separable from the questions this article means to raise, but the focus here will be on the problem of fossil fuel scarcity at the global level. This article seeks to provide an overview of the situation, including the prospects for an economy based on renewable energy, the security problems likely to result from tightening oil supplies, and a possible basis for making the transition to alternatives widely acknowledged as inevitable in the long run.

The Outlook for Energy

At the time of this writing, the price of oil has hit \$70 per barrel and is projected to rise even higher in the near term. While not a record when the fig-

ure is adjusted for inflation, this was still commonly taken as a sign that the era of "cheap energy" may be coming to an end.

Other numbers bear this out. Annual worldwide oil consumption is roughly 29 billion barrels a year, and estimated to be rising at two percent annually.² While there is widespread disagreement over their actual size, the world's total "proven" reserves of oil come to roughly one trillion barrels. A linear projection has oil supplies running out around 2030 after a long period of rising prices and tightening supplies, likely to begin after production peaks, generally expected to be sometime between 2010 and 2020—maybe just five years away.

The consequences of a shortfall in oil supplies on the scale of such predictions are as obvious as they are terrifying. A prolonged economic contraction and possibly a desperate scramble for resources that might bring major powers to blows are not out of the question, especially when the cost of other problems likely to place more pressure on the energy base (climate change, water shortages, population growth, etc.) are taken into account.³ In the absolute worst case, modernity might simply grind to a halt, a catastrophe that James Howard Kunstler describes in his recent book on the subject, *The Long Emergency*.

Of course, linear projections have their limitations, and any number of developments could throw them off—unanticipated changes in the character of economic productivity, or an economic slowdown, for instance. Actual oil reserves are likely larger than the proven figure, which would delay the crunch for some years. Rising energy needs will mean higher prices and shorter supplies, which will stretch out the supply by encouraging conservation.⁴ They also will produce increased efforts to supplement oil with more plentiful coal, "heavy oil," and natural gas. The degree to which these alternatives can pick up the slack, however, is a subject of intense disagreement, as all these resources will mean higher energy prices.⁵ Moreover, they do not eliminate the problem of the finite amount of these resources, with natural gas reserves particularly unlikely to last all that much longer than oil.

In short, the oil age may end within a generation given the present economic picture, with potentially dire consequences. The prospects of alternatives to fossil fuels are therefore the key issue, such as the expanded use of nuclear energy or, ideally, renewable energy sources. Many observers predict

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that it will be decades at the very least before these inherently more difficult energy sources can be exploited on a sufficiently large scale to meet the needs of advanced societies. The use of renewables has expanded rapidly in recent years, but these energy sources still supply only a small part of overall consumption, even in leaders like Denmark, where wind energy provides 10 to 15 percent of that country's electricity. If anything, given the scope of the problem and the length of time for which it has been around, the pace of actual progress has been frustratingly glacial. While the pace may be accelerating, a gap between desired levels of energy output and those actually attainable through these means is conceivable.

Nonetheless, the doomsday scenario posited by Kunstler and others is not a necessary outcome. The problem is not that substitutes do not exist, but that they are, in the view of many analysts, too expensive or too unwieldy to support desired levels of economic productivity and living standards. There is little doubt that there would be some significant transition costs, as there are in every major economic change. Observers hostile to these technologies, however, routinely play on popular fears that any change in the status quo will force Americans to give up their cars, or kill economic growth. Their exaggerations aside, such arguments conveniently neglect the fact that the exhaustion of oil resources in an unprepared world will be incalculably more devastating than any plausible adaptation, and that the earlier the transition begins, the easier it will be to spread the costs over time.

More important, such analyses tend to suffer from three major deficiencies that exaggerate the difficulties involved with alternatives. The first is that calculating the costs and benefits of oil against other energy sources is far more complicated than studies pointing to the cost-ineffectiveness of renewables admit. Many costs of fossil fuel use are easily externalized, distorting the picture. The cost of pollution, military expenditures aimed at securing oil sources, and other kinds of subsidies mask the actual price of "cheap" oil—as do the very low gasoline taxes Americans enjoy.⁶ Certain savings from the distributed energy production that renewables might allow, while potentially substantial, are not easily or automatically factored into such calculations.⁷ Moreover, solar, wind, and other sources will become relatively less expensive as oil prices rise. And it also should be noted that many experts regard wind power as already competitive with fossil fuels in some geographically favorable areas.

The tendency to underestimate the gains that alternatives may bring is reinforced by a broader tendency to stress costs more than benefits, not only on the part of oil industry boosters, but generally due to the changing nature of political debate.⁸ The potential for a rapid changeover also tends to be underestimated, observers forgetting that comparably large transformations

***“A linear projection has oil supplies
running out around 2030.”***

have happened before in a relatively short period of time. Oil became cheaper than coal only in the mid-1950s, a mere 50 years ago. As a result, coal went from generating 100 percent of Europe's thermal electricity to less than half by 1973, oil picking up much of the slack even as overall energy production grew substantially.⁹

The second problem with such predictions is their built-in assumption that the relevant technologies will be static. Future improvements cannot be taken for granted, but are a near-certainty nonetheless, given the prolonged drop in the price of solar- and wind-generated energy since the 1970s, and the prospects for both continued research and development and mass production. The already low price of wind power can drop further still, given the potential of innovations like flying wind generators. Capable of exploiting the jet stream and returning the electricity to the ground through a tether, a few clusters of six hundred each could meet the entire energy needs of an industrial nation like Canada.¹⁰

There are even strong indications that electricity produced by photovoltaic solar cells will, assuming sufficient effort, become competitive in price with even subsidized, deceptively cheap oil and gas in a matter of years rather than decades. This may be due to new, low-cost materials; designs which use a greater part of the electromagnetic spectrum; more efficient use of their surface area; easily installed, self-assembling liquid solar cell coatings; and architectural structures maximizing output.¹¹ Several of these developments could be flashes in the pan, something to which energy production has sadly been prone; for half a century fusion power has been “30 years away.” Nevertheless, given the long-term trend of improvement and the number of directions from which the problem is being attacked, some approaches will likely pay off.

A third problem is the tendency to view the matter as a choice between the outright replacement of fossil fuels or nothing at all. The reality, however, is that partial solutions can provide a cushion until a more complete transition can be brought about. This being the case, it matters little if renewable energy production will at first be undergirded by more traditional supplies. Solar cells and wind turbines will be made in factories powered by oil-burning plants. To state this as proof that alternatives to oil are unrealistic

is nonsense. The energy base of the future will have to be created using the energy base existing now, just as the oil-based economy was built using previously existing sources. Of greater concern, many schemes for a hydrogen economy involve the extraction of hydrogen from natural gas or other fossil fuels, with power supplied by traditional electricity sources like oil, coal, and nuclear generators. Hydrogen, however, also can be extracted directly from water through photoelectrochemical processes or electrolysis, which could be powered by cheap wind and solar energy.¹²

The problem, then, is less the “technical ingenuity” needed to produce these technologies than the “social ingenuity” which will implement the technologies on a national and global basis.¹³ Renewable energy technology can potentially do the job; what is really at issue is whether or not good use will be made of that potential. Nonetheless, the political problem posed by the demise of the fossil fuel era is not limited to the challenge of constructing a new energy base.

Security Concerns

Even without taking into account related problems like the greenhouse effect, the security problems posed by the exhaustion of supplies of easily accessible, cheap oil and gas are highly varied and daunting. The likely result would be the exacerbation of familiar problems like resource conflict, weapons proliferation, and state failure. However, other problems are more novel, not least of all the potential for changes in the international balance of power based not only on which countries control the lion’s share of the world’s fossil fuel supplies, but which are most dependent on those supplies.

New Resource Wars

The most obvious concern is a reinvigoration of resource conflict. As the oil deposits believed to lie under a disputed piece of ground or sea floor become more valuable economically, governments might be more prepared to fight for them. Since the War on Terrorism began in 2001, China, seeing itself in a more vulnerable strategic position, has been more willing to negotiate its claims over the South China Sea.¹⁴ However, the issue has yet to be resolved, and an oil-hungry China can yet take a harder line, especially if this becomes more profitable. China also has behaved provocatively elsewhere, sending naval vessels into Japanese claims around the Senkaku Islands.¹⁵ Similar conflicts remain unresolved in other regions, including sub-Saharan Africa and Latin America.¹⁶ Moreover, even states unlikely to go to war over territory would face greater prospects of involvement in an armed conflict, and find a powerful incentive to develop and deploy long-range power-projection capabilities.

Resource wars also can be a cause of internal conflicts or unrest. The war in the Indonesian region of Aceh is partly driven by the government's determination to hold onto an oil-rich region, and the resentment of the inhabitants has been partly a response to the damage oil production has done to local communities. Oil also was at stake in the fight over East Timor, which on the first day of its independence concluded a deal with Australia regarding its oil-rich offshore claims.

The problem may in fact be exacerbated by certain solutions to the world's energy problems. To give one example, the development of new technologies which permit cost-effective drilling for oil in deeper waters could create new flash-points. Cheaper deep-water drilling, for instance, would make the oil under the South China Sea a more valuable prize.¹⁷ As certain kinds of alternative energy technologies are developed, the value of certain resources is also likely to become more strategically important (like platinum for hydrogen fuel cells), with similar results.

As the situation stands, two-thirds of what were the high seas in 1958 have been "territorialized" to some degree. The United Nations Convention on the Law of the Sea extended territorial waters from three to 12 miles, recognized 200-mile Exclusive Economic Zones and 350-mile continental shelf claims, and permitted the enclosure of the internal waters of archipelagic states like Japan.¹⁸ At the same time, the mineral wealth of these regions has remained largely unexploited. While the ambitious ocean mining schemes of 30 or 40 years ago amounted to little, rising energy costs and improved technology could give them a future—and make the right to profit from them a new cause of conflict.

Increased Disorder

Resource conflict, however, is likely to be confined within particular regions. The economic effects of an oil shortage would be global. With less energy at their disposal, societies and governments everywhere will have more difficulty coping with problems likely to be of a more severe character—burgeoning populations, climate change, and shortages of such critical resources as water and arable land. The problem of the salinated and damaged farmland on which a third of the world's crops is presently grown is a case in point. Aside from expensive repair, costly methods like drip-irrigation will be needed to keep such lands arable, necessitating more, not less energy.¹⁹

Another likely ramification of such an energy shock is a new wave of debt crises and state failures. As in the 1970s, those most vulnerable would be developing nations short on hard currency and dependent on oil imports, which might see their development progress strangled by a spike in prices. If the prospect of 2050s America resembling a *Mad Max* movie is far-fetched

and extreme, it is not so for less fortunate regions where such regressions have already happened, as in Somalia.²⁰ Lacking appropriate or adequate capital, institutions, and technical knowledge, their situations will much more readily degenerate to the point of collapse.²¹ And, as events in recent years have demonstrated, advanced nations will not easily insulate themselves from these problems, given the refuge for criminal activity and terrorism such areas will provide, as well as the waves of refugees they may generate. It may even be possible for practitioners of a radical ideology to seize power in a major state. Even without that happening, we could see an inward turn on the part of major powers seeking to establish self-contained economic empires, as happened during the Great Depression.²²

Nuclear Proliferation

Alternatively, oil shortages, or the prospect of them, may put pressure on states to follow France's path in the 1970s and invest heavily in nuclear technology. The problems posed by greater nuclear proliferation (or poorly built and operated reactors) need little elaboration.

Perceiving a heightened threat environment amid more widespread resource conflict and state failure, states may be more likely to seek out such systems regardless of the inherent dangers. With greater insecurity and the need for alternatives to fossil fuels feeding each other, the nonproliferation regime will be under greater pressure than it is today.

A Return to 1973?

America's dependence on foreign oil (a problem that Arctic oil drilling will not even come close to solving) makes the nation susceptible to foreign leverage, and the Middle East aside, other major oil-producers may have strategic interests or goals conflicting with those of the United States.²³ Given the present diversity of suppliers, a future version of the OPEC embargo may be unlikely, but the contraction of oil supplies is still likely to mean shocks ahead.

Moreover, it must be noted that the pain of a shock will not be felt evenly. Efficient energy users will suffer less, and vice-versa. At present, that would be to the disadvantage of the United States relative to other developed nations like Germany.²⁴ Correspondingly, states which derive a higher proportion of their energy from renewables would be less vulnerable economically, a condition easier to achieve if energy use is already efficient.

This raises another issue of particular concern for the position of the United States, one generally given short shrift. The hype about information technology in the 1990s contributed to a complacent assumption of American technological dominance, which is simply baseless where renewable energy is concerned.²⁵ The small but rapidly growing world market in photovoltaics, fuel

cell-based vehicles, and wind turbines is dominated by Europe and Japan, where the most promising research continues. In fact, America's profile has actually shrunk in this area, with its share of the world market in photovoltaics falling to 11 percent in 2004 from 25 percent just five years earlier.²⁶

One result is that, short of a change in this situation, a conversion of the national energy base will likely expand the already massive US trade deficit, rather than constituting a new opportunity for American growth. The possibility must therefore be considered that an oil shock may hurt the United States more severely than the other developed nations, weakening its international position relatively as well as absolutely.

Meeting the Challenge

The most obvious response, at least from the perspective of traditional national security, is to take the dangers described above into account in threat planning. In other words, in the event of a new energy crisis, there may be more state failures, weapons proliferation, and resource conflict. Nonetheless, military force is inadequate to deal with the larger problem of relieving the dependence on finite fossil fuels—although government research and development (R&D), military as well as civilian, can play (and already is playing) a role in creating a path out of that dependence.

The predominance of neoliberal economic theory makes it easy to forget the degree to which key economic innovations have been pioneered and supported by government.²⁷ While it is the robber barons who are celebrated, the railroads of the 19th century were built with massive government assistance in the form of loans, land grants, and other subsidies. In the 1950s, no one waited for the private sector to step in and provide a highway system. Modern computers, the internet, and space technology all benefited immeasurably from government research, and indeed may have been inconceivable without government efforts.

The job of government is precisely to step in where a need exists when the private sector is either unwilling or unable to satisfy it. This is the case at present with renewable energy, and at this point it is worthwhile to reflect on America's history in this area. "Big Science" in the United States has been most successful when explicitly oriented toward a particular goal, as with the early space program. The Soviet launch of the first Sputnik satellite was a profound shock, but America responded effectively with massively enlarged investment in scientific education and research. Half a century later the United States is in a dominant position in space, its satellite networks a cornerstone of its unprecedented military superiority.

Where energy is concerned, the "Sputnik moment" has long since come and gone. The project of freeing the American economy from oil depend-

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ence arguably deserves the same priority the moon mission enjoyed 40 years ago, speaking as it does to a far more central national interest, and it is worthwhile considering why the results achieved to date have been so modest.

The simple fact is that US energy policy traditionally aimed at an expansion of oil and gas production, while investing heavily in nuclear energy. There was a brief enthusiasm for renewable sources and conservation in the 1970s, but the economic reforms of the 1980s are generally considered to have ended this. Research and development funding for energy was substantially reduced, and tax credits and regulations were abandoned to the end of creating a “free market” in energy.²⁸ The nascent alternative energy industry was not only left to sink or swim among more mature competition, but as a net result of assorted tax policies and subsidies it was put at a disadvantage, and it withered.

When considering the character of the energy business, it is hardly surprising that they did not pick up the slack. Energy firms invest relatively little in R&D, about 0.5 percent of revenue, compared with 10 percent in high-tech fields, the figure actually declining in the 1980s and 1990s.²⁹ Moreover, the emphasis has not been on “system-shattering” research, but on “conservative innovations able to pay off in the short term,” a category which generally has excluded renewables.³⁰

All of this made alternative energy an especially poor candidate for the free-market path, though to be fair, previous energy technologies typically required massive government support before becoming sustainable. Of some \$150 billion spent subsidizing solar, wind, and nuclear energy between 1947 and 1999, more than \$145 billion went to nuclear (96 percent of the total).³¹ This may seem appropriate, given how much more energy nuclear generators are producing today compared with wind and solar. Between 1947 and 1961, however, federal subsidies toward nuclear energy on a per-kilowatt basis were 40 times those provided to wind (which had then been comparably important), and it is difficult to imagine nuclear energy’s comparative efficiency having come about without such massively disproportionate early investment.³²

Since then research dollars have continued to favor fossil fuels and nuclear energy, arguably beyond a point of diminishing returns.³³ R&D spend-

ing for renewables has been about \$10 billion, compared with \$20 billion and \$40 billion for fossil fuels and nuclear energy, respectively.³⁴ While that figure still appears large, it is less impressive when broken down by area. American spending on hydrogen fuel in the 1970s, for instance, totaled a paltry \$24 million and represented only a third of Western Europe's spending on the same area of research.³⁵ The quality of that research spending also has been questionable, as the spectacular success of Denmark's much smaller R&D program in wind turbine technology demonstrates.³⁶

In short, renewables were never given a proper chance because of a conventional wisdom that says "let the market do it," no matter how unwilling the market proves to be, and the disinterest of the powerful oil, gas, and nuclear lobbies, which have continued to receive the lion's share of government support.³⁷ The progress of sources like wind and solar energy since the 1970s occurred not because of but in spite of the policies of the last quarter-century, and, given political realities, this seems unlikely to change. Nevertheless, with each passing year it becomes harder to deny that change is called for, and that the arguments against a change simply do not hold water.

The resistance to planning that left the United States without an industrial policy has resulted in a \$700 billion annual trade deficit, caused in large part by American imports of manufactured products once made at home. With the beginning of the end of the oil age possibly around the corner, the United States cannot afford to be without an energy policy. A logical starting point is a program to nurture renewable sources and conserve fossil fuels on a scale far more ambitious than anything previously attempted or currently being considered.

Even the aforementioned \$10 billion figure is modest in comparison with the sums spent on major national projects like the Manhattan Project and the Apollo moon missions in much shorter periods of time, adjusting for inflation and economic growth. For that matter, it is modest in comparison with public R&D spending generally, which exceeds \$100 billion a year—despite the continuing decrease of federal spending as a share of the country's total R&D funding.³⁸

Whatever its precise size, this program ideally should be aimed not only at making the United States a world leader in the field of renewable energy sources, but at reducing America's fossil fuel consumption below present levels in absolute terms before 2020 and *eliminating* fossil fuel dependence no later than 2040 and preferably earlier. To that end, the United States should pursue a broad range of approaches, not only hydrogen (the production of which should be delinked from fossil fuels and rare minerals to the extent possible), but also photovoltaics, wind, ethanol, biomass, and, while they are more dependent on geography, tidal and geothermal. The characteristics of some of

these energy sources offer a variety of practical benefits, making them worthy of military R&D dollars.

One advantage is the potential that renewable sources offer for distributed power.³⁹ Given the prospect that US forces will increasingly be based in less-developed regions like the Middle East, Central Asia, and even sub-Saharan Africa, not being dependent on local power grids can be an advantage. For example, at present the self-sustaining Navy base at Guantanamo Bay, Cuba, has a wind turbine installation which produces 5 to 12 percent of its energy during the spring, and up to 25 percent during the windy period of the fall months, reducing diesel imports by 650,000 gallons annually.⁴⁰

At the same time, the unique needs of military programs make them a logical starting point for at least some research in this area. Running information-age campaigns with industrial-age logistical systems is already problematic, and renewable energy sources or conservation technologies might provide a partial solution. The Army is presently funding a program to develop flexible solar panels that may ultimately be woven into the fabric of tents or uniforms to supply power for communications equipment, computers, and other electrical appliances.⁴¹ A hydrogen fuel cell able to get more miles per gallon could be a considerable boon to mechanized Army units, to say nothing of Navy and Air Force units, which may see benefits even sooner. Submarines using fuel cells are not only possible, but, in the form of the Type 212A, are already entering service with the German navy.⁴²

Research into technologies facilitating conservation also would play a role in a balanced strategy, since more efficient energy use makes it easier for still-developing renewable energy power sources to meet a given need—and, in any event, these are seen by many observers as more promising in the near term. Energy savings can come from sources less familiar than the typical examples of hybrid or electric cars, more efficient appliances, and solar water heating. The use of strong, ultralight materials such as new, carbon-based ceramics can reduce fuel consumption. A car made out of carbon nanotubes, for instance, would weigh 50 pounds, and while a 50-pound car may be unattractive for one reason or another, it demonstrates the potential for very large fuel economies. The development of substitutes for oil in products like plastics, fertilizers, and pharmaceuticals also can assist, as can improved mass transit systems, a modern rail system, modernized power grids, support for zero-energy housing, and practical superconductors.⁴³

All of the above hold the promise of reducing electricity and fossil fuel consumption to a fraction of present levels without sacrificing modern conveniences. There also are ways in which technology can aid conservation by enabling people and goods to move less without sacrificing economic productivity or the quality of life (and in some cases, perhaps increasing them),

as by enlarging telecommuting.⁴⁴ Another is a reduction of “production sharing,” the practice of widely dispersing the manufacture of a single item or, more radically, the movement of production closer to markets via replicating technologies like the three-dimensional printer, a technology that exists today, albeit in its infancy.

Beyond research and development, every reasonable effort should be made to facilitate the mass production of these technologies and adopt them at home and abroad, including carefully thought-out tax credits and buyback rates for net-excess power. Should American companies seriously enter the market in new types of energy and conservation technologies, the broadening of effort, greater production, and increased competition could drive prices down further. Purchases of the relevant technology can be subsidized, and government and military facilities can assist by purchasing their power from such sources, boosting the market. Protectionist measures, however, are uncalled for as a way of bringing about this end. Indeed, cooperation would be a preferable approach, given that this already belated process might be disrupted by very little interference. Such a project also could be a basis for collaborating with allies irked by a perceived lack of US concern for the natural environment.

Moreover, it must be remembered that the greatest increases in oil consumption are coming not from the developed nations, but from developing ones like China and India. These represent perhaps an even more promising market than developed nations for the technology in key respects. Precisely because their energy consumption is growing more rapidly than anywhere else, their infrastructures are still being built; according to one estimate, a third of the world’s population is still unconnected to an electric grid. Additionally, their energy consumption will be lower for the foreseeable future, making at least some of their demand more easily met through renewables.

Sales of the technology can be facilitated through foreign aid programs, and such an action shouldn’t be viewed as charitable. To the extent that the access of other nations to this technology will reduce the emission of greenhouse gases, conserve the fossil fuel supplies which will continue to meet much of America’s energy needs for decades to come, expand the market for US companies working in this arena, and diminish the security burden resulting from a scramble for cheap oil, then doing so will be very much in the national interest of the United States.

The program proposed here no doubt appears exceedingly ambitious, and it certainly is, but this is a different matter from saying that it is impossible, undesirable, or unnecessary. One might also protest that despite the unease surrounding oil prices of \$70 a barrel, there is no “emergency” yet. The point, however, is to prevent the situation from ever becoming one.

NOTES

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2. US Central Intelligence Agency, "World," in *CIA World Factbook 2005*, 9 August 2005, <http://www.cia.gov/cia/publications/factbook/geos/xx.html#Econ>; US Department of Energy, Energy Information Administration, *International Energy Outlook 2005—Highlights*, July 2005, <http://www.eia.doe.gov/oiaf/ieo/index.html>, and *International Energy Outlook 2004*, April 2004, <http://www.eia.doe.gov/oiaf/archive/ieo04/index.html>.
3. See Colin Mason, *The 2030 Spike: Countdown to Global Catastrophe* (London: Earthscan Publications, 2003.)
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5. Carbon capture technologies may, however, make the inevitable, expanded use of fossil fuels more palatable from an environmental perspective. S. Julio Friedman and Thomas Homer-Dixon, "Out of the Energy Box," *Foreign Affairs*, 83 (November/December 2004).
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8. See Zaki Laidi's writing on "avoidance strategies" in *A World Without Meaning*, trans. June Burnham and Jenny Coulon (London: Routledge, 1998).
9. Paul Bairoch, *Economics and World History* (Chicago: Univ. of Chicago Press, 1993), p. 62.
10. Given the very high levels of relatively inexpensive power that a small number of such clusters can produce, this approach would seem especially attractive for the purposes of a rapid changeover and may therefore be deserving of special attention. Lawrence Solomon, "Flying Windmills," *National Post*, 19 March 2005.
11. "Discovery May Spur Cheap Solar Power," *CNN.com*, 2 October 2003, <http://www.cnn.com/2003/TECH/biztech/10/02/solar.cells.reut/>; Charles Choi, "Nanotech Improving Energy Options," *SpaceDaily*, 27 May 2004, <http://www.spacedaily.com/news/nanotech-04zj.html>; Ian Sample, "'Self-Assembling' Solar Cells Developed," *New Scientist*, August 2001; "Solar Cells Go Organic," *Economist*, 20 June 2002; Stephen Leahy, "Solar Tower of Power," *Wired News*, 24 February 2005.
12. For that matter, hydrogen also can be recovered from ethanol, sunflower seed oil, and other substances, in some cases even more efficiently. Mark Clayton, "One Step Closer to Hydrogen Economy?" *Christian Science Monitor*, 19 February 2004; Gabe Romain, "Sunflowers Seed Hydrogen Economy," *Better Humans*, 25 August 2004, <http://www.betterhumans.com/News/3868/Default.aspx>; Daithi O Hanluain, "Hydrogen Fuel Closer to Fruition," *Wired News*, 2 September 2004. Another procedure uses algae to generate the product. Michael Mechanic, "It Came from the Swamp" *Wired*, April 2002. A less tractable problem is the use of rare and expensive platinum as a catalyst in fuel cell designs, though substitutes are presently being explored, including one based on iron. "Researchers Investigate Iron-Based Electrocatalyst as Platinum Substitute," *The Hydrogen & Fuel Cell Letter*, 1 March 2005.
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15. John J. Tkacik, Jr., "Japan's Islands and China's Illicit Claims," Heritage Foundation press release, 14 April 2005.
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22. Harold James, *The End of Globalization* (Cambridge, Mass.: Harvard Univ. Press, 2001).
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24. Germany gets by on one-half as much energy for every dollar of GDP it produces, despite deriving a greater share of that GDP from energy-intensive manufacturing. Ricardo Bayon, "The Fuel Subsidy We Need," *The Atlantic Monthly*, February 2003. In the future it may be necessary to look at productivity not only per manhour, but also per watt-hour to gain a sense of a nation's competitiveness.
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26. Eugene Linden, "Selling the Sun . . . And the Wind," *Time*, 16 July 2001.
27. Kevin Phillips, *Wealth and Democracy: A Political History of the American Rich* (New York: Broadway Books, 2002).
28. Salvatore Lazzari, *Energy Tax Policy*, report, Congressional Research Service, 24 August 2001. At the same time, the abandonment of fuel efficiency regulations (and dropping oil prices) caused fuel efficiency to drop in important areas like automobile design. Efficiency there generally flat-lined in the 25-30 mile per gallon range by the mid-1980s, with car manufacturers instead looking to build large, powerful vehicles rather than efficient ones, though a market for more efficient hybrids is growing. Lovins, "Mobilizing Energy Solutions."
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"Extension du domaine de la lutte": International Migration and Security before and after September 11, 2001

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If one searches for a short description of what happened on September 11, 2001, the title of the novel *Extension du domaine de la lutte*¹ by French writer Michel Houellebecq comes to mind. The novel "extension of the combat zone" is not primarily about military hostilities. Rather, the fictitious people created by Houellebecq engage in destroying each other's livelihoods. Applied to September 11, this includes the spread of mass fear – in short, terrorism as a method. Terrorism is a difficult term, fraught with many ambiguities and often not used in historically specific ways. It is itself part of a semantic war. For example, in the 1970s the United States spoke of Moscow as the source of terrorism; in 2001 the networks of *Al Qu'aida* around Osama bin Laden have become the center of attention. Undoubtedly, what is now called September 11 came as a shock to all of us. It was a unique instance of violence, different from acts grounded in organizations with clear political goals such as ethno-nationalist movements which are usually labeled terrorist by the governments of countries affected – for example, the Basque ETA or the IRA. In hindsight, it is worth noting that mass-cultural fantasies about global catastrophes and lesser fears have been around for several decades. Even academic publications, such as Jessica Stern's *The Ultimate Terrorists* (1999), start with the scenario of an atomic bomb devastating Manhattan. Quite often, dire scenarios have been connected to international migration, alluding to the proverbial "other" and "stranger" as a source of threats to "our" jobs, housing and borders, but also more far-reaching ontological threats to the borders of sovereign states, bodily security, moral values, collective identities and cultural homogeneity. In addition to questions about the causes of globalizing violence, one has to ask why quite a few citizens in the West have taken recourse to fantasmic threats posed by migrants, even before September 11.

The responses to the events on September 11 have reinforced the security-migration nexus, dramatizing a publicly convenient link between interna-

¹The original French version was published in 1997 by *J'ai lu (Littérature Générale)*.

tional migration and security. Governments all over Western Europe and North America have not only strengthened border *viz.* external controls but also internal controls of non-citizens. In Germany, September 11 has even delayed the passage of the new immigration law because governing and opposition parties could not agree on tighter checks upon applicants for citizenship. In general, the event suited those political forces who intended to stall reforms in immigration and integration policies. Such examples highlight more fundamental concerns about "new" security issues, comprising international terrorism, ethno-national strife, environmental degradation, food and energy scarcities, drug trafficking, population growth, illegal *viz.* unauthorized migration, and organized crime, to mention only the most prominent ones. Interestingly, not all of these issues are necessarily state-centered, as in the old paradigm about "national security."

In such a complex setup, the question cannot simply ask how international population movements contribute to the creation of conflicts within and between states. Instead, it is also important to ask why migration has increasingly become a matter of security. In other words, why has migration undergone a sort of securitization? And what are the consequences? My argument is that the depiction of migration as a security threat in the West has unwillingly contributed to what American political scientist Samuel Huntington has termed the "clash of civilizations." Securitizing migration reinforces the very stereotypes about cultural fears and clashes that politicians publicly deny. In the following, I first open the historical window of opportunity in which migration has turned into a security issue. Second, I discuss the function of the migration-security nexus as an instance of symbolic politics *viz.* Meta-politics in particular. Third, I briefly name some of the consequences of securitizing international migration.

In recent times, migration as a security threat has emerged with the end of the Cold War and transnational diasporas, such as some Islamic groups that have taken recourse to violent means in order to escape a *cul-du-sac* in what they perceive as Western values, political orders and lifestyles. While international migration often connected to security issues over the past 150 years, the end of the Cold War has been the most recent development which favored the spread of objectless fear. This historical divide not only meant the disappearance of a powerful external threat to the security of the West but also the loss of an important source of cohesion between the diverse groups which constitute them. This transformation, and the fall of some authoritarian regimes, opened up a space for marginalized identities in Eastern Europe,

Central and even Southeast Asia to freely assert suppressed national and ethnic identities. In this changing international and transnational context, even sovereign states have begun to view security as the collective management of subnational or transnational threats and the policing of borders and internal realm, rather than just the defense of territory against external attack.

In Europe, the perceived resurgence of Islam as a political force has been often discussed in connection with Muslim immigrants as such, but above all with regard to diasporas. Relations between countries such as France and Algeria or Germany and Turkey have been fraught with the export and import of conflicts surrounding politicized forms of Islam and national liberation. Apart from substantial human and state security issues involving border-crossing authoritarian movements such as the Kurdish PKK, diasporas have become the quintessential expression of globalization associated with the movement of people across borders – as distinct from the flow of goods, capital and services. Such transnational communities are by no means confined to Muslim communities. Diasporas are ethno-national and/or religious groups who have settled in a country different from the country of origin, who have remained or turned into minority groups, are frequently resisting assimilation, and strive for return to an (imagined) homeland, often after the experience of forced dispersal. This description includes the archetypal Jewish experience, followed by Armenians and Palestinians. In other situations, transnational communities comprise political dissidents, such as Cubans or Poles in the United States, former indentured laborers, such as the Chinese, or middlemen minorities, such as Indians, all over the world. Reference to such groups has been ideal for setting disloyalty on the public agenda in debates over multiple citizenship, and lacking accountability viz. legitimacy in conflicts over national unity. Public debates also include the allegations of the extraordinary influence of small lobbies on foreign policies. Notably the Jewish, Greek and Armenian diasporas in the United States are thought to profoundly affect foreign policy towards their homelands through means such as military and economic assistance, arms sales, media pressure, petitions, and electoral campaign threats.

Public and academic attention focuses almost exclusively on the negative consequences of transnational organizations and communities. This is surprising at first sight because such border-crossing groups can also be thought to, and indeed have, under propitious circumstances, positive effects as conduits for democratization and the spread of human rights. Consider the case of fourth- and fifth-generation Polish-Americans in the United States during the 1980s in supporting organizations such as *Solidarność* in their struggle

against the communist regime in Poland. Indeed, the export of democracy as a creative mix of exit from authoritarian regimes, and voice from abroad, carries more weight today than in the early decades of the twentieth century. In the past, examples such as the Spanish Civil War and anti-fascist movements during World War II indicate that émigrés did contribute to the fall of authoritarian or totalitarian regimes but were not the main cause, which can be attributed to lost wars and economic recessions. Nowadays, the conditions for an effective mix of territorial exit and political voice have increased (cf. Hirschman, 1970 on the terminology). Most emigration countries do not resemble the strong authoritarian states of the early and mid-twentieth century. Transnational activists thus encounter somewhat more propitious conditions to reinforce political transitions towards democratic life and human rights in their home countries.

In immigration countries, substantial and perceived threats caused by migration range from migrants posing threats to "our" jobs, incomes, housing or culture, to nationalist movements that operate across the borders of sovereign states, to those using terrorism as a method, such as militants operating in global networks. The links between international migration and security threats are inconclusive. These two phenomena only superficially share the fact that border crossings are involved. Moreover, not all flows of persons across the borders of sovereign states constitute migration. Tourists and business travelers account for more border crossings than labor migrants or refugees. In particular, the link between migration and increases in other phenomena, such as drug trafficking and crime, is vastly overstated. Potentially, large immigration flows may enhance the opportunities and provide low-cost means, such as couriers, to distribute drugs. Also, immigrant communities of secluded religious sects make it easier for would-be terrorists to find anonymity. And, in exceptional circumstances, as a result of large immigration flows, some native workers may be adversely affected by immigrants in terms of jobs and wages. But it is a long stretch to argue that even a partial solution to certain countries' drug, crime and unemployment problems would be significantly affected by acting on immigration flows. Given this context, it is worth noting that migration policies are often even institutionally linked to crime. For example, the European Union (EU) created two groups in the 1980s – the TREVI group, in which ministers of justice and interior discussed issues of police cooperation, including terrorism; and the Ad hoc Group on Asylum and Immigration, where the same ministers met informally to discuss the harmonization of asylum and immigration policies.

These two groups were the forerunners of the Justice and Home Affairs Council and all institutional EU mechanisms to deal with these policy areas. Such institutional connections send ambiguous signals to populist politicians and audiences.

In the end, the migration-security nexus is about values affected that are linked to ontological security, perceived existential threats. As immigration history shows, foreigners or immigrants were frequently perceived to threaten cultural identity. Wild swings in immigration policy have not only come about by infrastructural considerations or material threats but also as a result of fears about the cultural fabric of societies. Examples range from anti-Chinese legislation in North America and Australia in the late nineteenth century to alleged Muslim threats in Europe in the late twentieth century.

Identities connected to ethnic groups, nations and civilizations are neither fixed givens nor are they totally fluid. They are always partially under construction, especially regarding security threats. After the East-West conflict, numerous divides offer unspecific referent objects for fears. This also means that groups and their identities are never just given in a security account, but they develop within the story by the definition of threats. In the most basic way these are accounts of trust and solidarity, on the one hand, and fear and unspecific *Angst*, on the other. Terrorism as a method is an obvious link to trust and fear, even in the field of migration. Such terrorism is perceived and is indeed trying to instill fear – fear of the “other” who is the carrier of death. In such contexts dichotomies flourish, such as the inner circle which is to be trusted and the outer periphery which is to be feared.

Even in less dramatic instances not connected to terrorism but to material threats and the import of conflicts from countries of origin into countries of settlement of immigrants, the security narrative demands that fear and *Angst* have to be controlled. Taken to the extreme, survival depends on control, even elimination of the source of threat. Securitizing migration is an attempt at control.

Securitizing migration is also part of elevating migration to a meta-issue (cf. Lasswell, 1935): In this case, international migration, immigration and emigration can be conveniently connected to a host of other issues, especially danger and threat, military – but above all social, economic, political and cultural. Meta-issues form the basis for symbolic politics, more precisely, meta-politics. Migration is such a well-suited meta- *viz.* overarching issue because multitudinous phenomena connect to physical mobility of persons. Meta-politics connects real-world issues with fears around international

migration. Immigration can be referred to by politicians in explaining many social, economic and security problems – such as unemployment, housing shortages, crime – without having to give concrete evidence because the effects of immigration are empirically hard to establish. In referring to these fears and in being responsive to the expectations of their constituency, especially politicians from populist parties have in fact introduced and reinforced xenophobic tendencies. This is not to say that threats to security in immigration countries are without any real-world foundation. However, through meta-politics, low-level threats usually gain out-of-proportion significance. Of course, all politics has a symbolic content. Otherwise, political actors could not aggregate and articulate interests and mobilize supporters. However, meta-politics unsettles the precarious balance between the material and symbolic content of politics in connecting substantive issues such as unemployment and security to symbols which signify threats in factually incorrect ways (Faist, 1994).

Meta-politics in general and securitizing migration in particular helps to make culture even more important as a marker between natives and migrants, and firmly establish dichotomies of “us” versus “them.” It does not help to say that struggles against terrorism, crime and traffickers do not constitute a conflict between cultures, a “clash of civilizations.” The very securitization contributes to perceiving all aspects of security eventually as bounded by cultures and value systems, be they religiously or secularly legitimized. Demonizing “the migrant” as a potential “terrorist” creates fear and a perception of threat to ontological security far exceeding actual developments.

Since September 11, internal and external control of immigrants has increased. Measures which try to handle the threatening migrant make him or her more visible as an alien. For example, due to ever stricter border controls, unauthorized migrants gain more visibility. The very collection of statistics legitimizes stricter border controls and further contributes to the perception of the migrant as illegitimate and potentially criminal, although politicians take great care to accuse the traffickers and depict the migrants as victims. All of this has an ironic side to it because border control is one of the few remaining fields in which sovereign states have shown that their autonomy has not been hampered by growing globalization of the flow of people. Furthermore, even stricter border controls do not constitute a suitable means to combat terrorism. Immigration and visa control policies are far less likely to catch a determined terrorist than they are to control unauthorized immigration. In turn, stricter controls and limits on civil rights of aliens further

strengthen cultural divides between immigrants and natives, contributing to further upward-ratcheting effects. By engaging in a meta-politics of migration and security, politicians produce the very clash of civilizations from which they verbally abstain.

The juxtaposition of trust and fear and the ever renewed dualism of "us" versus "them" is deeply regressive in a globalizing society. Editorials in leading newspapers around the West have pointed out that postmodern ambiguities are out of date and have been replaced by a clear trench line between liberalism vs. terrorism (Joffe, 2001; *Der Spiegel*, 2001). One may easily extend this link further to liberalism versus Islamic or Christian fundamentalism. But such simplicity overlooks the fact that wanton violence is itself aided by globalization and is also reproduced internally in those societies imbued with Western values. The massacre at Waco, Texas, is just one prominent example, the bombing in Oklahoma City another.

This mix of meta-politics and more substantial security threats has profound implications for a research agenda on migration and security. So far, there is an imbalance in research on migration and security. Following public discourses, migration scholars have mostly either defensively argued against making a link between migration and terrorism or have pointed out substantial security threats for people and states emanating out of civil wars, refugee flows, and nationalist struggles involving categories such as militant refugee warriors. Without denying the importance of such analyses, it is vital that they be complemented by two extensions.

Obviously, the first task includes the rigorous study of the meta-politics of migration and security as part of migration politics. This does not only include the study of anti-immigrant violence but also the rhetoric of regular immigration politics. The second task is to extend our knowledge not only about the import *viz.* export of conflicts through international migration but more virtuous cycles of transnationalization such as the diffusion of human rights and democratic principles with the help of émigrés, migrants and refugees. This would constitute one modest step towards removing fuzzy fantasies about "the migrant" as a security threat. This also implies a redirection of the study of the politics of international migration. At first sight, the events of September 11 have dealt another devastating blow to the Kantian utopia of perpetual peace. Yet, the age of globalization demands to renew Kant's vision. Immanuel Kant (1795:93–130) argued that perpetual peace is possible in a system of republics, which we would now call liberal democracies, governed by the rule of law. He wrote about a federation of states as one guar-

antor of peace. Nowadays this vision has to be supplemented by an empirical analysis of how transnationalizing civil societies may underpin the diffusion of human, civil and political rights. Sometimes, international migrants actively voice ideas and interests in this transnational realm.

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Environmental Security: The Search for Strategic Legitimacy

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It has now been more than two decades—well before the end of the Cold War—since the Worldwatch Institute's Lester Brown first issued a plea to adopt a new and more robust conception of national security attuned to the contemporary world. The threats to security, he argued even then, now may arise less from relations between nations than from man's relations with nature—dwindling reserves of critical resources, for example, or the deterioration of earth's biological systems:

The military threat to national security is only one of many that governments must now address. The numerous new threats derive directly or indirectly from the rapidly changing relationship between humanity and the earth's natural systems and resources. The unfolding stresses in this relationship initially manifest themselves as ecological stresses and resource scarcities. Later they translate into economic stresses—inflation, unemployment, capital scarcity, and monetary instability. Ultimately, these economic stresses convert into social unrest and political instability.¹

Stewards and students alike of relations between the armed forces and society would do well to take Brown's entreaty to heart. He reminds

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ARMED FORCES & SOCIETY, Vol. 27, No. 3, Spring 2001, pp. 373-395.

us that, now more than ever, security encompasses not just military affairs but much more as well. He forces us to the realization that environmental conditions may underlie and contribute to political, social, and economic conditions having strategic and even military consequences. He underscores the general recognition that the state of the environment inevitably and invariably affects human well-being (and feelings of security). Finally, therefore, he implies two important things: (1) that, in the years ahead, militaries could be at least part of the national and international response to situations stemming from environmental decline; and (2) that the public's sense of well-being, a function in no small measure of environmental quality, may contribute materially to public trust and confidence in the institutions of government, to societal cohesion, and thus to the national will necessary for the state to act effectively, at home or abroad, militarily or otherwise.

Brown has been followed—cautiously at first, now more boldly—by others who have recognized the need not only to expand the bounds of national security thinking and discourse, but to take particular account of environmental concerns in such deliberations. Jessica Tuchman Mathews, currently president of the Carnegie Endowment for International Peace, argued over a decade ago, for example: “Global developments now suggest the need for . . . [a] broadening definition of national security to include resource, environmental and demographic issues.”²

One of the most powerful observations made to date—one that could be judged, in equal measure, as either visionary or hyperbolic—is that by writer-analyst Milton Viorst, who has argued that “population and environment . . . seem the obvious sources of the next wave of wars, perhaps major wars.”³

Whether or not, as Viorst contends, the groundwork for a wave of environmental wars is already falling into place, there is growing acceptance today of the proposition that the environment and security are indissolubly linked. The term *environmental security* is, in fact, now an established, if persistently nebulous, part of the argot of national security affairs. Two issues, however, continue to divide experts on the subject and, more importantly, to thereby undermine the legitimacy of environmental security as a worthy object of major national-security policy emphasis: the definitional ambiguity of the concept itself and the causal relationship between the environment and security. Both require elucidation and understanding by anyone attempting to grapple with the environmental security implications of any major international development—be it China's rise to great-power status, the spread of global-

ization, the expansion of NATO, the anticipated demise of the nation-state, or whatever.

Coming to Terms With Environmental Security

What is environmental security? This question dominates the literature on the subject—frustratingly, but perhaps understandably, in light of the uncertainties and confusions that dog the field of national security affairs in the post-Cold War era. It is a question that begs for an answer sufficiently compelling and definitive to give observers confidence that they can know the condition—as well as its presumed antipode, environmental insecurity—when they see it.

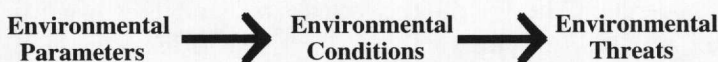
Most discussions of the meaning of environmental security focus on the nature of *security*—whether it is fundamentally a military phenomenon that, by implication, would tend to render environmental concerns largely irrelevant, or whether it is something more robust and inclusive that logically would encompass, and perhaps even revolve around, environmental considerations.⁴

Little attention is typically given to the meaning of *environment*—the assumption presumably being that the nature of nature is too obvious to warrant elaboration. Such an assumption, of course, does us little good if what we want is a reasonably systematic, fastidious analytical path that would lead us from the parameters that define the environment, to the state of that environment, to what we might consider environmental threats to security (Figure 1).

Institutional definitions of the environment used by the likes of the Environmental Protection Agency (EPA) and the Defense Department are largely unhelpful in specifying what the environment includes. The EPA defines the environment as “the sum of all external conditions affecting the life, development and survival of an organism.” The Pentagon is only moderately more enlightening: “Air, water, land, man-made structures, all organisms living therein, the interrelationships that exist among them, and archeological and cultural resources.”⁵

Figure 1

The Environmental Focus



A more satisfying enumeration is found in China's original 1979 Law on Environmental Protection, which uses the term environment to encompass "the air, water, land, mineral resources, forests, grasslands, wild plants and animals, aquatic life, places of historical interest, scenic spots, hot springs, resorts and natural areas under special protection as well as inhabited areas of the country."⁶

This portrayal provides a basic point of departure for considering what is actually of more direct interest to us: the environmental conditions that hold potential for becoming environmental threats. A useful enumeration of such conditions is contained in the 1991 *Beijing Declaration on Environment and Development*, agreed to by the representatives of the 41 developing countries who attended that year's Ministerial Conference of Developing Countries on Environment and Development:

The more serious and widespread environmental problems are air pollution, climate change, ozone layer depletion, drying up of fresh water resources, pollution of rivers, lakes and the marine environment including the coastal zones, marine and coastal resources deterioration, floods and droughts, soil loss, land degradation, desertification, deforestation, loss of biodiversity, acid rain, proliferation and mismanagement of toxic products, illegal traffic of toxic and dangerous products and wastes, growth of urban agglomerations, deterioration of living and working conditions in urban and rural areas, especially of sanitation, resulting in epidemics and other such problems.⁷

Such conditions become problems that command our attention when they threaten or endanger something of value to us. What do we mean "something of value": regional stability? U.S. interests? U.S. objectives? U.S. credibility? For that matter, what do we mean by "us": the United States? the developed world? humanity? The answers aren't at all clear.

Then-Senator Al Gore, in his 1992 book *Earth in the Balance*, sought to identify, categorize, and differentiate environmental threats according to their presumed reach and impact. Using an ordering scheme similar to that commonly used to characterize different levels of military operations, he described as local (or tactical) threats such things as water pollution, air pollution, and illegal waste dumping. Problems such as acid rain, the contamination of underground aquifers, and large

oil spills, on the other hand, are fundamentally regional threats, while global warming and ozone depletion are strategic. In turn, Eileen Claussen, former assistant secretary of state for oceans and international scientific and environmental affairs, has defined as global environmental threats those "which are human-caused and have, or can be expected to have, serious economic, health, environmental, and quality of life implications for the United States." Examples include climate change, the production and trade of highly toxic chemicals, the loss of biodiversity, ozone depletion, and marine degradation.⁸

Both schemes regrettably fail to take due cognizance of the convergence that has occurred in the postmodern media age in which we live between the tactical (local) and strategic domains of action. Seemingly obscure, minor events in the remotest reaches of the globe can (and regularly do) have almost instantaneous strategic reverberations at many spatial and temporal removes from their point of occurrence. Thus, what might otherwise appear to be an environmental condition with purely local consequences—polluted air or water supplies, the progressive diminution of arable land due to desertification, the loss of forest reserves—can in fact produce effects of strategic import.

Environmental threats may take the form of either environmental degradation or resource scarcity. The magnitude and reach of their consequences bring us face to face with the importance—but also the difficulty—of formulating a relevant conception of security. In one sense, we have to acknowledge in this regard that there is fundamental disagreement between those who think environment and security should be linked and those who think not. The latter, who might be characterized as rejectionists, generally consider security a military-diplomatic-intelligence enterprise that is antithetical to, and thus should be kept separate from, environmental endeavors for fear of militarizing the latter.⁹

In the former camp are those who, though agreed that there is a definite and proper linkage between environment and security, nonetheless differ in their notions of what security is all about or whose security is at stake. At one end of the spectrum are those who adhere to a relatively traditional belief that *national* security is the appropriate frame of reference, that the security of the state is what matters, and that security is properly a state-oriented enterprise.¹⁰

At the other end of the spectrum are those who think the individual is the proper focus of security concerns and that individual well-being is the very essence of the security *problematique*. Norman Myers is the most visible and compelling proponent of this point of view. In his book

Ultimate Security: The Environmental Basis of Political Stability, he notes:

Security applies most at the level of the individual citizen. It amounts to human wellbeing: not only protection from harm and injury but access to water, food, shelter, health, employment, and other basic requisites that are the due of every person on Earth. It is the collectivity of these citizen needs—overall safety and quality of life—that should figure prominently in the nation's view of security. . . . The entire community of nations, indeed all humankind, needs to enjoy security in the form of acceptably clean (unpolluted) environments, supplies of environmental goods such as water and food, and a stable atmosphere and climate. In short, all nations need a planetary habitat that is secure in every down-to-Earth respect—which means, in turn, that “we” are only as safe as “they” are.¹¹

In very much the same vein, the United Nations Development Program (UNDP) has invested a great deal of intellectual capital in propounding the idea of *human security*, which, “though simple, is likely to revolutionize society in the 21st century.” Human security stands in clear distinction to traditional notions of national and global security, where the focus was on such things as national interests, the defense of territory from external aggression and, in the extreme, nuclear holocaust. Human security has two major dimensions: first, safety from such chronic threats as hunger, disease, and repression; and second, protection from sudden and hurtful disruptions in the patterns of daily life.

The UNDP identifies seven categories of threats to human security: economic, food, health, environmental, personal, community, and political. The environmental threats countries face today are a combination of the degradation of local ecosystems and of the global system. While most forms of environmental degradation have their severest impact locally, other effects migrate beyond national frontiers and thereby represent global challenges to human security.¹²

By focusing on security at the human level, we are forced to acknowledge two things:

- In its fullest sense, security is not simply about providing for the common defense but also tending to those other

aims enunciated in the Preamble to the U.S. Constitution: forming and preserving a more perfect union, establishing justice, ensuring domestic tranquility, promoting the general welfare, and securing the blessings of liberty.

- In its most fundamental sense, security means freedom not just from threat and intimidation, harm and danger, but no less from doubt and fear, need and want.

Psychologist Abraham Maslow brought us to the realization that security and safety are fundamental human needs, exceeded in their potency only by the more basic physiological needs for food, water, shelter, and the like. Because the state of the environment is instrumental in determining whether and how both of these levels of basic human needs are met, and because such needs translate into human rights, there is a clear link between environmental security and human rights.

Barbara Rose Johnston makes the persuasive case that "environmental degradation and human rights abuse are inextricably linked." The right to health, a decent existence, work, and occupational safety and health, she notes, along with the right to an adequate standard of living, freedom from hunger, an adequate and wholesome diet, and decent housing; the right to education, culture, equality and nondiscrimination, dignity, and harmonious development of the personality; the right to security of person and family; the right to peace; and the right to development are all established by existing United Nations covenants. (Table 1, accompanying, contains passages from selected documents concerning the environment as a human right.)

Thus:

Human rights are abused when political and economic institutions and processes wrest control over traditionally held resources without negotiation or compensation. Human rights are abused when political and economic institutions and processes degrade environmental settings, place individuals and populations at risk, withhold information about that risk, and rationalize selective exposure on the basis of national security, national energy, and national debt. And, even in the context of strong legal protection for human rights and environmental quality, human rights are abused when cultural forces and economic greed co-opt and corrupt the implementation of legal structures.¹³

Table 1**The Environment-Human Rights Connection**

- ◆ From *Universal Declaration of Human Rights* (1948):
 - Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family . . . (Article 25(I))
- ◆ From *Stockholm Declaration of the UN Conference on the Human Environment* (1972):
 - Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being . . . (Principle 1)
- ◆ From *International Covenant on Economic, Social and Cultural Rights* (1976):
 - . . . the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. (Article 12.1)
- ◆ From *World Charter for Nature*, UN General Assembly Resolution 37/7 (1982):
 - Mankind is a part of nature and life depends on the uninterrupted functioning of natural systems which ensure the supply of energy and nutrients.
- ◆ From *African Charter on Human and People's Rights*, Banjul (1986):
 - All peoples shall have the right to a general satisfactory environment favorable to their development. (Article 24)
- ◆ From *Legal Principles for Environmental Protection and Sustainable Development*, World Commission on Environment and Development (1987):
 - All human beings have the fundamental right to an environment adequate for their health and well-being. (Article 1)
- ◆ From *Costa Rica Declaration of Human Responsibilities for Peace and Sustainable Development* (1989):
 - . . . human beings have the fundamental right to live in an environment of a quality that permits a life of dignity and well-being. (Preamble)
- ◆ From *Economic Commission of Europe Charter on Environmental Rights and Obligations* (1990):
 - Everyone has the right to an environment adequate for his general health and well-being. (Principle 1)
- ◆ From *The Hague Recommendation on International Environmental Law* (1991):
 - . . . the individual and collective fundamental human right to an environment which ensures a healthy, safe, and sustainable existence and spiritual well-being. (Principle I.3b)
- ◆ From *Rio Declaration on Environment and Development*, UN Conference on Environment and Development (1992):
 - Human beings . . . are entitled to a healthy and productive life in harmony with nature. (Principle 1)
- ◆ From *Draft Declaration of Principles on Human Rights and the Environment*, Sierra Club (1994):
 - All persons have the right to a secure, healthy and ecologically sound environment. This right and other human rights, including civil, cultural, economic, political and social rights, are universal, interdependent and indivisible. (Part I, Principle 2)
 - All persons have the right to freedom from pollution, environmental degradation and activities that adversely affect the environment, threaten life, health, livelihood, well-being or sustainable development within, across or outside national boundaries. (Part II, Principle 5)
- ◆ From *Draft International Covenant on Environment and Development*, World Conservation Union (1995):
 - . . . the right of everyone to an environment and a level of development adequate for their health, well-being and dignity. (Article 12.1)

Principal Source: The Earth Charter Campaign, <http://www.earthcharter.org>

Viewing security in this fashion—as, at root, a human state or condition—argues for the recognition that security at the national or global level is tied to, even a function of, that at the individual level. And identifying the health of the environment as a human right brings into question the continuing relevance of long-held notions of (state) sovereignty and territorial integrity; not only do environmental effects readily cross national borders (a form of external aggression), but the desiderata for responding to the human consequences of such effects could well be seen as comparable to those for any other form of humanitarian intervention (an increasingly likely and acceptable practice in the post-Cold War world).

As one scholar has noted perceptively, a broader interpretation of security than the traditional one we are used to brings into question the optimistic social contract assumption by which state (national) security translates, *ipso facto*, into security for all its citizens. This more comprehensive view envisions the provision of broad-based (including ecological) security to the largest possible component of humanity, not just to the administrative apparatus of the state; in so doing, it thereby tends to erode state primacy and sovereignty.¹⁴

In the larger transnational context, it becomes increasingly clear, in the words of another student of the subject, that “for *all* [emphasis added] people to be [truly] secure, there must be reasonable equity in the provision of basic human needs among individuals, genders, communities, generations, nations, and ethnic groups. Sharp differences in peoples’ sense of their own social, political, economic, personal, and environmental security will generate conflict, and thus further insecurity.”¹⁵

Such views lend support to the results of a 1998 survey conducted by the Millennium Project of the American Council for the United Nations University. Respondents to the survey generally agreed that an acceptable definition of environmental security should include these elements:

- Public safety from environmental dangers caused by natural or human processes due to ignorance, accident, mismanagement, or design.
- Amelioration of natural resource scarcity.
- Maintenance of a healthy environment.
- Amelioration of environmental degradation.
- Prevention of social disorder and conflict (promotion of social stability).¹⁶

By implication, then, where the public is safe from environmental dangers, natural resource scarcities and environmental degradation are ameliorated, and a healthy environment maintained, social stability is likely to be promoted and social disorder and conflict prevented. The result is a state of environmental security. Where these conditions do not exist, the result is environmental insecurity.

In Search of Causation

Generally speaking, the link between the environment and security takes three forms. The first is the destructive effect of security activities—most notably military operations and training, and weapons development and use—on the environment. The second is actual environmental warfare involving the targeting, destruction, or manipulation of the environment for hostile purposes. The third, that of particular interest here, is the effect the environment may have on security—specifically as a cause or precipitant of insecurity in the form of violence, instability, and the like.¹⁷

The idea that conflict may be caused—or at least prefigured—by environmental conditions (and resource scarcities) is the heart of most discussions of, and disagreements on, the subject today. Significantly, it is a notion that has risen well above the level of sterile academic debate and intruded itself into the highest policy councils. Without doubt the most authoritative international source to address the environment-security relationship is the 1987 final report of the World Commission on Environment and Development (the Brundtland Commission). It is worth quoting at length:

Environmental stress is both a cause and an effect of political tension and military conflict. Nations have fought to assert or resist control over raw materials, energy supplies, land, river basins, sea passages, and other key environmental resources. Such conflicts are likely to increase as these resources become scarcer and competition for them increases. . . .

A number of factors affect the connection between environmental stress, poverty, and security, such as inadequate development policies, adverse trends in the international economy, inequities in multi-racial and multi-ethnic societies, and pressures of population growth. . . . The real sources of insecurity also encompass unsustainable development, and its effects can become intertwined with traditional forms of conflict in a manner that can extend and deepen the latter. . . .

Environmental stress is seldom the only cause of major conflicts within or among nations. Nevertheless, they can arise from the marginalization of sectors of the population and from ensuing violence. This occurs when political processes are unable to handle the effects of environmental stress resulting, for example, from erosion and desertification. Environmental stress can thus be an important part of the web of causality associated with any conflict and can in some cases be catalytic. Poverty, injustice, environmental degradation, and conflict interact in complex and potent ways. . . . In addition to the interrelated problems of poverty, injustice, and environmental stress, competition for non-renewable raw materials, land, or energy can create tension. . . . As unsustainable forms of development push individual countries up against environmental limits, major differences in environmental endowment among countries, or variations in stock of usable land and raw materials, could precipitate and exacerbate international tension and conflict.¹⁸

Similarly, the 1995 final report of the Commission on Global Governance, in advocating a more inclusive conception of security ("Global security must be broadened from its traditional focus on the security of states to include the security of people and the planet"), suggests a strong relationship between the environment and security:

Environmental deterioration, particularly in areas of pervasive poverty and recurrent drought, is a growing source of potential conflict. . . . Social breakdown and internal conflict in Somalia, Rwanda, and Haiti were undoubtedly exacerbated by environmental deterioration accompanied by mounting population pressures. These phenomena will, if unchecked, create on a much broader scale the underlying conditions that set the stage for future conflicts. . . .

The uneven and often inequitable impact of political, economic, and environmental change on different segments of a population often gives rise to violent conflicts. A root cause of many conflicts is poverty and underdevelopment. But not all development failures create security crises. A distinction must be made between the general conditions of poverty, inequality, and environmental degradation that may generate instability in the long term (and that must be addressed as part

of a larger effort to promote sustainable development) and the specific developments, policies, or abuses that may precipitate conflict and lead to sporadic or sustained violence.¹⁹

Within the United States, the respected Carnegie Commission on Preventing Deadly Conflict suggests that there are at least three clear ways in which the use and misuse of natural resources may underlie conflicts that hold potential for mass violence: (1) the deliberate manipulation of resource shortages for hostile purposes (e.g., using food or water as a weapon); (2) competing claims of sovereignty over resource endowments (such as rivers or oil); and (3) the exacerbating role played by environmental degradation and resource depletion in areas characterized by political instability, rapid population growth, chronic economic deprivation, and societal stress.²⁰

The Clinton administration, for the most part, thoroughly internalized the belief that environmental conditions can have a demonstrable impact on the precipitation of conflict and on security more generally. This is manifested most clearly in the five national security strategy reports the White House has issued since 1993. The July 1994 and February 1995 reports used nearly identical language to characterize the relationship:

Increasing competition for the dwindling reserves of uncontaminated air, arable land, fisheries and other food sources, and water, once considered "free" goods, is already a very real risk to regional stability around the world. The range of environmental risks serious enough to jeopardize international stability extends to massive population flight from man-made or natural catastrophes . . . and to large-scale ecosystem damage caused by industrial pollution, deforestation, loss of biodiversity, ozone depletion, desertification, ocean pollution and ultimately climate change.²¹

The May 1997 and October 1998 reports portray environmental damage as one of a number of transnational threats—along with terrorism, international crime, drug trafficking, illicit arms trafficking, and uncontrolled refugee migrations—that endanger U.S. interests, citizens, and even the American homeland itself:

Environmental threats do not heed national borders and can pose long-term dangers to our security and well-being. Natu-

ral resource scarcities can trigger and exacerbate conflict. Environmental threats such as climate change, ozone depletion and the transnational movement of hazardous chemicals and waste directly threaten the health of U.S. citizens.²²

In the most recent report, dated December 1999, environmental threats are combined with health threats, separate and distinct from other transnational phenomena:

Environmental and health problems can undermine the welfare of U.S. citizens, and compromise our national security, economic and humanitarian interests abroad for generations. These threats respect no national boundary. . . . In the future, we face potentially even more devastating threats if we fail to avert irreparable damage to regional ecosystems and the global environment. Other environmental issues, such as competition over scarce fresh water resources, are a potential threat to stability in several regions.²³

Elsewhere, in various settings, President Clinton highlighted the environment-security linkage. In a September 1993 address to the United Nations General Assembly, he commented that the "roots of conflict are so often entangled with the roots of environmental neglect and the calamities of famine and disease." The following spring, in Earth Day remarks, he stated even more forcefully: "We have to understand the urgency and magnitude of this environmental issue as a global crisis. We have to work to stop famine and stabilize population growth and prevent further environmental degradation. If we fail, these problems will cause terrorism, tension and war."²⁴

Secretary of State Madeleine Albright echoed this theme, as did her predecessor Warren Christopher. Secretary Albright observed:

Competition for scarce resources . . . can still elevate tensions among countries or cause ruinous violence within them. In addition, a lack of environmentally sound development can entrap whole nations within a cycle of deepening poverty, disease and suffering. There is nothing more destabilizing to a region than to have as a neighbor a society so depleted in resources that its people have lost not only faith, but hope.²⁵

In an important 1996 memorandum to all State Department under-secretaries and assistant secretaries, "Integrating Environment Issues

Into the Department's Core Foreign Policy Goals," Secretary Christopher emphasized the numerous ways in which the quality of the earth's environment affects U.S. national interests:

Worldwide environmental decay threatens U.S. national prosperity. . . . In an integrated world economy, environmental degradation in one part of the globe can affect economies everywhere. . . . Environmental and resource issues can also have an important effect on political stability in regions key to U.S. interests. Disputes over scarce water resources can exacerbate existing political conflict. . . . Rapid population growth . . . can combine with stagnant economies or diminished natural resources, and contribute to domestic political disorder, or to migration and international conflict.²⁶

Both the State Department and the Agency for International Development (AID) have official, stated positions on the importance of environmental developments around the world to U.S. interests and foreign policy. The State Department position reads:

Global environmental problems—such as the buildup of greenhouse gases, toxic chemicals, and pesticides; species extinction; deforestation; and marine degradation—respect no borders and can threaten the health, prosperity, and security of all Americans. . . . Countries, especially in the developing world, face a number of complicated and interrelated transboundary environmental challenges. . . . These issues—air quality, water and energy resources, land use, and urban/industrial growth—either can contribute to political and economic tensions or can be a focus of regional cooperation.²⁷

AID's position is similar:

At the local level, environmental degradation poses a growing threat to the physical health and economic and social well-being of people throughout the world. Explosive and poorly managed urbanization has contributed significantly to air, water, and soil pollution worldwide. The erosion and degradation of soils, loss of fertility, deforestation, and desertification beset rural communities and undermine food production, cause malnutrition, and impel migration. Water shortages cause con-

flicts among industrial, agricultural, and household users within countries and among nations. . . . America's own well-being is directly threatened by environmental degradation around the world. We cannot escape the effects of global climate change, biodiversity loss, and unsustainable resource depletion. The consequences of local environmental mismanagement—increasing poverty, social instability, wars over resources—endanger our political and economic interests.²⁸

The Central Intelligence Agency now has an environmental center that, among other responsibilities, is charged with monitoring and assessing the role played by the environment in country and regional instability and conflict. This new intelligence community emphasis was underscored by John Deutch, during his tenure as President Clinton's second director of central intelligence. In 1996 testimony before the Senate Select Committee on Intelligence, he spoke of the growing threat of environmental degradation: "A deteriorating environment can not only affect the political and economic stability of nations, it can also pose global threats to the well-being of mankind."²⁹ In a subsequent speech to the World Affairs Council in Los Angeles, he observed:

Environmental trends, both natural and man-made, are among the underlying forces that affect a nation's economy, its social stability, its behavior in world markets, and its attitude toward neighbors. . . . Environmental degradation, encroaching deserts, erosion, and overfarming destroy vast tracts of arable land. This forces people from their homes and creates tensions between ethnic and political groups as competition for scarce resources increases. There is an essential connection between environmental degradation, population growth, and poverty.³⁰

Sherri Wasserman Goodman, who held the position of deputy undersecretary of defense for environmental security throughout the Clinton administration, also reaffirmed the link the highest levels of the administration believed exists between the environment and security:

It is clear that environmental degradation and scarcity and related conditions (such as increased population growth, urbanization, and migration, and the spread of infectious diseases) may contribute significantly to instability around the world. . . . Environmental scarcities can interact with political,

economic, social, and cultural factors to cause instability and conflict. . . . The multiple effects of environmental scarcity, including large population movements, economic decline, and capture of environmental resources by elites, can weaken the government's capacity to address the demands of its citizens. If the state's legitimacy and capacity for coercive force are undermined, the conditions are ripe for instability and violent conflict. If the state's legitimacy and coercive force capacity remain intact or are bolstered, the regime may turn more authoritarian and challenge the trend of democracy and free markets around the world. Either way, our security is affected, and U.S. military forces may become involved, when environmentally linked instability spills over to other states in a key region, or when a complex humanitarian emergency results from environmentally rooted population movements.³¹

Collectively, these statements and others of similar or greater import (see Table 2) say much about the extent to which policy practitioners—and, presumably, the bureaucracies they superintend—seem now to have internalized the general proposition that environmental stress of some sort *can be* an *antecedent* to some form of insecurity (or conflict or violence). “Antecedent” is a safer choice of terms than “cause,” precisely because the question of whether and how much environmental conditions can be said to actually *cause* insecurity is the core of the ongoing debate—in both academic and policy circles—over whether the environment deserves to be thought of as a legitimate, serious security concern. On methodological grounds, some scholars even shy away from considering something as nebulous as environmental degradation in the same breath with more readily identifiable and measurable instances of resource scarcity and depletion. Similarly, methodological concerns on the output side of the equation deter some from even considering insecurity, a largely psychological state, as the effect of interest—preferring instead to rely on observable and documentable instances of violence.³²

Because of the difficulty of establishing true causation, there is a rather widespread tendency to acknowledge that environmental factors must be considered in consonance with other—social, political, and economic—factors as contributors to insecurity. What is generally left unsaid, however, because it is inherently unclear, is which comes first: the social-political-economic chicken or the environmental egg. The University of Toronto's Thomas Homer-Dixon, one of the most re-

Table 2**The Environment-Security Connection**

- ◆ From "World Charter for Nature," UN General Assembly Resolution 37/7 (1982):
 - The degradation of natural systems owing to excessive consumption and misuse of natural resources, as well as to failure to establish an appropriate economic order among peoples and among States, leads to the breakdown of the economic, social and political framework of civilization.
 - Competition for scarce resources creates conflicts, whereas the conservation of nature and natural resources contributes to justice and the maintenance of peace and cannot be achieved until mankind learns to live in peace and to forsake war and armaments.
- ◆ From Moscow Declaration, Global Forum on Environment and Development for Human Survival (1990):
 - World peace, the full and equal participation of women and men, fairness, the elimination of poverty and a determination to protect our children from preventable disease and death, are essential conditions for sustainable, environmentally sound development in our interdependent world.
- ◆ From Rio Declaration on Environment and Development, UN Conference on Environment and Development (1992):
 - Warfare is inherently destructive of sustainable development. States shall therefore respect international law providing protection for the environment in times of armed conflict and cooperate in its further development, as necessary. (Principle 24)
 - Peace, development and environmental protection are interdependent and indivisible. (Principle 25)
 - States shall resolve all their environmental disputes peacefully and by appropriate means in accordance with the Charter of the United Nations. (Principle 26)
- ◆ From Copenhagen Declaration, World Summit for Social Development (1995):
 - We share the conviction that social development and social justice are indispensable for the achievement and maintenance of peace and security within and among our nations. In turn, social development and social justice cannot be attained in the absence of peace and security or in the absence of respect for all human rights and fundamental freedoms. This essential interdependence was recognized 50 years ago in the Charter of the United Nations and has grown ever stronger. (Principle 5)
- ◆ From "The Earth Charter," Earth Charter Commission, Benchmark Draft II (April 1999):
 - The Earth community stands at a defining moment. With science and technology have come great benefits and also great harm. The dominant patterns of production and consumption are altering climate, degrading the environment, depleting resources, and causing a massive extinction of species. A dramatic rise in population has increased the pressures on ecological systems and has overburdened social systems. Injustice, poverty, ignorance, corruption, crime and violence, and armed conflict deepen the world's suffering. (Preamble)

spected but also controversial speakers on the subject, considers environmental scarcity—renewable resource scarcity—the ultimate source, though never the sole cause, of conflict and instability.

There are, he believes, three sources of environmental scarcity: degradation or depletion of a resource, increased consumption of the resource (due to population growth or rising per capita resource consumption), and uneven distribution that gives relatively few people disproportionate access to the resource and subjects the rest to scarcity. Environmental scarcity interacts with other political, economic, and social factors—the character of the economic system, levels of education, ethnic cleavages, class divisions, technological and infrastructural capacity, the legitimacy of the political regime—to produce intermediate social effects—poverty, intergroup tensions, population movements, institutional stress and breakdowns—that, in turn, lead to instability and conflict.³³

Homer-Dixon's research is especially useful in focusing our attention on intrastate conflict—where most experiential evidence seems to suggest the post-Cold War future lies—because, as he notes, “environmental scarcity rarely, if ever [contrary to conventional wisdom], causes interstate war.”³⁴ His work is less than totally useful, however, in focusing on resource scarcity to the exclusion of environmental degradation.³⁵ He thereby essentially dictates exclusive attention to such things as food security, water security, and energy security, while excluding other forms of environmental stress—including what, by semantic contrivance, we might refer to as atmospheric security.

Where Homer-Dixon is especially insightful is in leading us in the direction of the most powerful counterargument that can be made to resolute critics of environmental causation. He says that whereas, on first analysis, the main causes of civil strife appear to be social disruptions (e.g., poverty, migrations, ethnic tension, institutional breakdown), in reality scarcities of renewable resources, including water, fuelwood, cropland and fish, can precipitate these disruptions and thereby powerfully contribute to strife. By broadening his formulation, we may posit the existence of a more general *masking phenomenon* by which ostensibly political and economic causes of unrest, violence, conflict, and destabilization (e.g., political repression, corruption, and injustice; institutional failure; economic deprivation, exploitation, and dislocation) actually may mask underlying, less visible, less discernible environmental sources of dissatisfaction, discontent, and alienation (e.g., diminished quality of life; threats to safety and well-being).

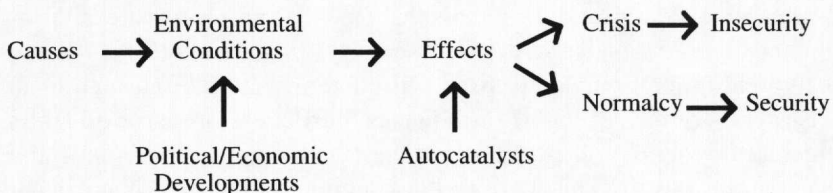
Strategically, identifying and diagnosing ultimate causes is of monumental importance. All strategy, regardless of its instrumental particulars, seeks two things above all else—(1) assured security (of the most inclusive variety), and (2) the prevention of crisis. Where crisis occurs, strategy has largely failed, and insecurity results; the situation predominates over decisionmakers, as do the visible symptoms of the moment over more obscure underlying causes. The strategic imperative, therefore, is to prevent crisis from occurring in the first place by targeting and treating root causes. But which causes—environmental degradation and resource scarcity, or the political, economic, and social factors that give rise to or exacerbate such conditions (population, poverty, ignorance, resource inequity, government incapacity, infrastructure deficiency)?

Figure 2 portrays a relationship in which these latter political, economic, and social factors are the ones that actually demand our attention. Population, for example—when explosive growth places increasing consumption demands on extant resources, when concentrated urbanization overtakes primitive infrastructure capacity, when migration brings different peoples into opposition over common sources of sustenance—cannot help but produce conflict-inducing environmental stress.

Two other sets of considerations must also be taken into account. The first is the range of political and economic developments that surround, and therefore cannot be divorced from, the emergence of particular environmental conditions. Politically, the spread of democracy, for example, will have much to say about (a) the awareness, expectations, and tolerance of any populace for environmental degradation or deprivation, and (b) the demands they place on government for effective environmental stewardship. Of similar import and impact will be the presence and proliferation of public and private institutions (especially nongovernmental organizations), whose interactions define

Figure 2

The Train of Causation



the state of civil society, and whose activism greatly influences the extent and pace of government action or inaction. Likewise, the decentralization of government authority to subnational levels—as well as the devolution of certain functions to the private sector—may heighten the difficulty of uniform or even consistent environmental performance across jurisdictions, even as it creates new centers for competitive autonomy leading to innovative environmental reform.

Economically, the inevitable diffusion of technology—from the automobiles, refrigerators, and air conditioners characteristic of rapid basic societal modernization to the cleaner materials, products, and processes characteristic of more mature stages of development—can have both positive and negative impacts on the environment. With most of the developed world moving to largely service-based economies, the industrialization that increasingly will be concentrated in the developing world will also have expectably pronounced environmental effects. On the one hand, population growth will produce mass markets of poor, uneducated consumers ripe for cheap products produced by dated, inefficient, polluting manufacturing processes that result in massive waste and environmental damage.

On the other hand, as economic and industrial globalization advances, as commercial markets become more open to entry and competition, as international environmental standards and compliance mechanisms take hold, and as industry gradually comes to see profitability and competitive advantage in cleaner products and manufacturing methods, the result could be a measurable greening of the marketplace. With globalization and the accompanying push for free-market capitalism will come many new examples of cut-throat economic Darwinism that widens the gap between rich and poor and provides infinite incentives for yet other forms of environmental racism and classism. At the same time, though, there is likely to be an expansion of the global middle class. Because environmental activism is fundamentally a middle-class, democratic phenomenon, this will give new life and reach to the environmental movement that will generate new pressures on—and frequently adversarial, sometimes hostile responses from—government.

A second set of considerations that must be taken into account is the appearance of autocatalytic events that feed off and accentuate environmental degradation and resource scarcity, thereby almost assuredly heightening public awareness and discontent. Natural and man-made disasters—floods, drought, earthquakes, hurricanes, massive oil spills, nuclear or chemical incidents—are the most common and identifiable such autocatalysts. The death and destruction they wreak magnify and

are multiplied by the state of the environment and the failure of governments to take necessary preventive action. As public awareness of this connection grows, so too does public disaffection and restiveness. Environmental refugees—masses of people displaced (knowingly or not) by the degraded sustainability of their surroundings—seem likely, with heightened media-age expectations and mobility, to become an ever more common autocatalyst. Like most movements of aliens onto the territory of others, tensions and attendant violence are almost inevitable. Another autocatalytic possibility is the occurrence of economic, political, or social crisis—a continuation or reprise of the Asian financial crisis, for example, or a coalescence of transnational religious or ideological fervor, either of which could heighten awareness and frustration over inequality, persecution, or unfulfilled expectations. Even international agreements (such as the Kyoto accords) that raise public awareness, sensitivity, and intolerance of environmental malfeasance and government inaction, or that, conversely, prompt governments to unusually harsh enforcement of environmental standards against foreign concerns, could be autocatalytic precipitants of unrest and violence.

Recognizing the existence of such factors, their relationship to one another, and their likely effects is the necessary first step in even accepting the proposition that the environment and security are inextricably linked. It also, though, is the first step in determining the actual state of environmental security in any particular part of the world and in then forging an effective preventive response that targets and acts on underlying causes rather than merely reacting to visible symptoms. It is a task that demands uncharacteristic strategic insight and initiative from policymakers too accustomed to the simplistic certainties and unambiguous threats of the Cold War.

Notes

1. Lester R. Brown, *Redefining National Security*, Worldwatch Paper 14 (Washington: Worldwatch Institute, October 1977), 37.
2. Jessica Tuchman Mathews, "Redefining Security," *Foreign Affairs* (Spring 1989): 162-177. Similarly, see Richard H. Ullman, "Redefining Security," *International Security* (Summer 1983): 129-153.
3. Milton Viorst, "The Coming Instability," *The Washington Quarterly* (Autumn 1997): 153-167.
4. The traditional military-dominant conception of security gives little, if any, credence to a noncanonical future that might include "green wars" in which environmental concerns, constraints, objectives, or constraints figure centrally. For recent attempts

- at clarifying the meaning of environmental security, see, for example, the series of essays in Miriam R. Lowi and Brian R. Shaw, eds., *Environment and Security: Discourses and Practices* (New York: St. Martin's, 2000); Daniel H. Deudney and Richard A. Matthew, eds., *Contested Grounds: Security and Conflict in the New Environmental Politics* (Albany, NY: State University of New York Press, 1999); and Alexander Carius and Kurt M. Lietzmann, eds., *Environmental Change and Security: A European Perspective* (New York: Springer-Verlag, 1999).
5. The EPA definition is contained in the agency's "Terms of Environment" at <<http://www.epa.gov/OCEPAterms>>. The Defense Department definition is in Department of Defense Directive 4715.1, "Environmental Security," February 24, 1996, which can be accessed at <<http://www.denix.osd.mil/denix>>.
 6. "China's First Environmental Law," *Beijing Review*, No. 45 (1979): 24.
 7. "Beijing Declaration on Environment, Development," *Beijing Review* (8-14 July, 1991): 10-14.
 8. See Al Gore, *Earth in the Balance: Ecology and the Human Spirit* (Boston: Houghton Mifflin, 1992), esp. 29; and Eileen B. Claussen, "U.S. Foreign Policy and the Environment: Engagement for the Next Century," *SAIS Review* (Winter-Spring 1997): 93-105.
 9. For one such characterization, see Richard A. Matthew, "A Clean, Secure Future," *Forum for Applied Research and Public Policy* (Winter 1998): 115-119. The rejectionist school includes Daniel Deudney, "The Case Against Linking Environmental Degradation and National Security," *Millennium* (Winter 1990): 461-476; and Marc A. Levy, "Is the Environment a National Security Issue?" *International Security* (Fall 1995): 35-62.
 10. See, notably, the work of Thomas F. Homer-Dixon, most recently including his *Environment, Scarcity, and Violence* (Princeton: Princeton University Press, 1999).
 11. Norman Myers, *Ultimate Security: The Environmental Basis of Political Stability* (New York: W.W. Norton, 1993): 31-32.
 12. United Nations Development Program, *Human Development Report 1994* (New York: Oxford University Press, 1994): 22-40.
 13. Barbara Rose Johnston, "Environmental Degradation and Human Rights Abuse," in *Who Pays the Price? The Sociocultural Context of Environmental Crisis*, ed. B.R. Johnston (Washington: Island Press, 1994): 7-15.
 14. Gerald B. Thomas, "U.S. Environmental Security Policy: Broad Concern or Narrow Interests," *Journal of Environment and Development* (December 1997): 397-425. Also see William R. Moomaw, "International Environmental Policy and the Softening of Sovereignty," *The Fletcher Forum of World Affairs* (Summer/Fall 1997): 7-15.
 15. Jon Barnett, "Reclaiming Security," *Peace Review* (September 1997): 405-410.
 16. Jerome C. Glenn, Theodore J. Gordon, and Renat Perelet, *Defining Environmental Security: Implications for the U.S. Army* (Atlanta: Army Environmental Policy Institute, December 1998), 19.

17. For a discussion of this structure, see Alan Dupont, *The Environment and Security in Pacific Asia*, Adelphi Paper 319 (London: International Institute for Strategic Studies, June 1998), 8.
18. The World Commission on Environment and Development, *Our Common Future* (New York: Oxford University Press, 1987), 290-307.
19. Commission on Global Governance, *Our Global Neighborhood* (New York: Oxford University Press, 1995), 78, 95-97.
20. Carnegie Commission on Preventing Deadly Conflict, *Preventing Deadly Conflict* (New York: Carnegie Corporation of New York, December 1997), 87.
21. The White House, *A National Security Strategy of Engagement and Enlargement*, July 1994, 15, and February 1995, 18.
22. The White House, *A National Security Strategy for a New Century* (May 1997): 10, 11, and October 1998, 6, 13.
23. The White House, *A National Security Strategy for a New Century*, December 1999, 3.
24. William J. Clinton, "Address to the 48th United Nations General Assembly," September 27, 1993; and "Remarks on Earth Day 1994," April 21, 1994.
25. Madeleine K. Albright, "Environmental Diplomacy: The Environment and U.S. Foreign Policy," Press Remarks on Earth Day, U.S. Department of State, 22 April, 1997.
26. Warren Christopher, "Integrating Environment Issues Into the Department's Core Foreign Policy Goals," Memorandum, U.S. Department of State, 14 February, 1996.
27. U.S. Department of State, "Environmental Diplomacy," Fact Sheet, Bureau of Oceans and International Environmental and Scientific Affairs, 20 November, 1998.
28. U.S. Agency for International Development, "Protecting the Environment," Fact Sheet, undated, <<http://www.info.usaid.gov/environment>>.
29. John M. Deutch, "Worldwide Threat Assessment Brief," presented before the Select Committee on Intelligence, U.S. Senate, 22 February, 1996.
30. John M. Deutch, "The Environment on the Intelligence Agenda," speech at the World Affairs Council, Los Angeles, California, 25 July, 1996.
31. Sherri Wasserman Goodman, "The Environment and National Security," speech at the National Defense University, Washington, D.C., 8 August, 1996.
32. Homer-Dixon, "Correspondence: Environment and Security," *International Security* (Winter 1996/96): 189-194.
33. Homer-Dixon, "The Project on Environment, Population and Security: Key Findings of Research," *Environmental Change and Security Project Report*, Issue 2 (Washington: Woodrow Wilson Center, Spring 1996), 45-48.
34. Ibid.
35. Ibid.