

Beyond Preemption: An Overview

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THE ISSUES OF force and legitimacy—of when to use military force, for what purpose, and who should decide—became highly contentious internationally as a result of three developments: the Kosovo campaign of 1999, the terrorist attacks of September 2001, and the Iraq war of 2003. Each of these events raised difficult questions about the continued applicability of the international framework governing the use of force. That framework, enshrined in the United Nations Charter signed at the end of the Second World War, was designed with one principal purpose in mind: to avoid another interstate conflict as devastating and destructive as the one that had just ended. Accordingly, the UN Charter proscribed “the threat or use of force against the territorial integrity or political independence of any state” (Article 2[4]). It recognized only two exceptions to this prohibition: “the inherent right of individual and collective right of self-defense if an armed attack occurs” (Article 51), and any use of force authorized by the UN Security Council in order “to maintain or restore international peace and security” (Article 42).

The Kosovo campaign, in which nineteen NATO countries launched a seventy-eight-day air war to halt Serbian efforts to oust the Albanian population of Kosovo from the country, met neither exception to the prohibition of the use of force. It was not an instance of self-defense, since the

people being defended were citizens of the very state that was being attacked. Furthermore, the NATO action was not directly authorized by the Security Council, since at least one permanent member (Russia) had made clear that it would veto any resolution authorizing the use of force in this instance. The terrorist attacks on the Twin Towers and the Pentagon of September 2001 raised to prominence the threat posed by nonstate actors and the issue of how to respond to such an attack. The Iraq war raised the question of whether explicit Security Council authorization was necessary to enforce its resolutions and, importantly, who decides whether this is necessary or not.

To address these questions and seek answers that might gain agreement from a wide range of actors around the world, the Brookings Institution in 2003 launched a major project on “Force and Legitimacy in the Evolving International System.” The project consisted of a series of workshops with officials, scholars, and legal and military experts from Europe, Russia, China, Latin America, South Asia, the Middle East, and sub-Saharan Africa. The workshops and a final international conference engaged in wide-ranging discussions of whether and when force might be used and how its use could best be legitimized. This volume builds on these discussions and proposes ways in which a renewed international consensus on these crucial issues might be forged.

The workshop and conference discussions during these three years, which are examined in greater detail by Anne Kramer in the final chapter of this volume, proved to be rich and rewarding, sometimes surprising, and always stimulating. In each session participants examined the appropriateness of using force in dealing with weapons of mass destruction, terrorism, and humanitarian crises, as well as ways (institutional and otherwise) such uses of force could best be legitimized. What follows are some of the project’s key findings.

First, there was widespread agreement that force—even when used preemptively—can be an appropriate response to the terrorist threat. Of course, defining what constitutes such a threat is not easy, as discussions of this issue at the United Nations have long underscored. Agreement to deal aggressively with terrorism was particularly strong in Russia, where discussions were held just weeks after the terrorist attack on the elementary school in Beslan that killed more than 300 people. Discussions with South Asians revealed an interesting paradox: while the use of force to

confront a terrorist threat (whether preventive, preemptive, or retaliatory) now enjoys widespread legitimacy, its efficacy is increasingly in doubt.

Second, Europeans and Africans, along with Americans, believed that using force to prevent or end widespread humanitarian abuses was appropriate and, when undertaken early enough, likely to be effective. There was strong support for the notion that states have a responsibility to protect their citizens and that their failure to do so puts the onus on the international community to step in and protect these people accordingly. There was no such support for humanitarian intervention among Mexicans, South Asians, or Russians, who regarded the responsibility to protect as an unwarranted interference in the internal affairs of states. However, there were several South Asians who held that if intervention could be justified on the basis of international humanitarian law, states could act on such a basis without prior Security Council authorization provided that they report their actions to the council along with an assessment of the legal grounds for such action. Interestingly, discussions with Chinese scholars demonstrated movement from a stance of strict noninterference toward a more pragmatic evaluation of China's strategic interests—including a belief that China would have supported military intervention in Kosovo if the issue had arisen in 2006 rather than in 1999. The official Chinese view, however, remains distinctly wary of any such interventions.

Third, there was no agreement—even among Americans and Europeans—on how to respond to the proliferation of weapons of mass destruction. Even when the discussion underscored the dire consequences of countries like Iran acquiring nuclear weapons, it was impossible to gain agreement on the need for preemptive action (let alone preventive war). Here, the consequences of the disagreement over Iraq clearly had their most profound implication. Again, interestingly, China's position appears to be evolving from a principled opposition to pragmatic considerations concerning the specificity of the threat, as determined not by whether a country acquires weapons but whether its past behavior suggests their possible use. Chinese participants indicated, for example, that in 2003 Beijing likely would have supported military strikes against Iraq on the scale of the 1998 Operation Desert Fox.

Fourth, most non-Americans, including Europeans, South Asians, and the Chinese, embraced a procedural form of legitimacy, insisting that the UN Security Council is the main, if not only, international body able to

authorize the use of force in situations other than self-defense. There was some sympathy for the notion that regional organizations might be able to step in if the UN Security Council would not, but this was still very much seen as a second-best option. There was no willingness to embrace the notion of substantive legitimacy—the idea that the positive outcome of the use of force might itself legitimize its use. Of course, the Kosovo intervention was partly legitimized in this way (and this paved the way to procedural legitimation after the fact). One could not help but wonder during the discussions whether sentiment might have been different if weapons of mass destruction had been discovered in Iraq.

These discussions coincided with the heated international debate that followed the Bush administration's reinterpretation of the framework guiding questions of force and legitimacy and its subsequent decision to invade Iraq. Many of those participating in the meetings were actively involved in the debate, and some helped prepare the report of the High-Level Panel on Threats, Challenges and Change, a panel that UN secretary general Kofi Annan appointed just as the Brookings project got under way. Our discussions and the search for a renewed international consensus on these important issues were therefore very much informed by the UN efforts—and vice versa.

This chapter, however, presents a view of this debate, including its merits and demerits, of one person alone. The conclusions reached and suggestions made are solely my own. They are offered in the hope that others might find them an acceptable way forward.

From Response to Prevention

The scale of destruction caused by the September 11 attacks raised the immediate and important question of how best to prevent another catastrophic event in the future—be it a terrorist attack, use of weapons of mass destruction, or a combination of the two. For the Bush administration as well as others, the answer was to act before another threat could materialize. “I will not wait on events, while dangers gather,” President George W. Bush declared in January 2002. “I will not stand by, as peril draws closer and closer. The United States of America will not permit the world's most dangerous regimes to threaten us with the world's most destructive weapons.”¹

While Bush did not explain how the United States would counter this rising danger, it was evident that the administration believed preventive military force would have to be at the core of any successful strategy. This belief rested on two central arguments. First, the key actors that threatened America (rogue states and terrorists) were fundamentally different from the traditional adversaries the United States had long confronted. Whereas strategies of deterrence and containment were appropriate for dealing with the Soviet Union, they would be ineffective in confronting these new threats. “Deterrence,” Bush explained, “means nothing against shadowy terrorist networks with no nation or citizens to defend. Containment is not possible when unbalanced dictators with weapons of mass destruction can deliver those weapons on missiles or secretly provide them to terrorist allies.” In this new security environment, safety could no longer be assured by the ability to defeat threats after they had formed. “If we wait for threats to fully materialize, we will have waited too long.”²

The second reason for relying on preventive force was the catastrophic cost of misjudging the imminence of the threat. “We don’t want the smoking gun to be a mushroom cloud,” Condoleezza Rice, Bush’s national security adviser, famously declared with reference to Iraq.³ Whatever the costs of lowering the barrier to using force preventively, the administration argued, they were outweighed by the dangers of waiting too long to act. As the National Security Strategy put it, “the greater the threat, the greater is the risk of inaction—and the more compelling the case for taking anticipatory action to defend ourselves, even if the uncertainty remains as to the time and place of the enemies’ attack. To forestall or prevent such hostile acts by our adversaries, the United States will, if necessary, act preemptively.”⁴

The United States was not alone in believing that the changing nature of the threat and the costly consequences of miscalculating it required countries to act preventively. Most of the major powers in the world arrived at a similar view. “Containment will not work in the face of the global threat that confronts us,” explained British Prime Minister Tony Blair in 2004. “The terrorists have no intention of being contained. The states that proliferate or acquire [weapons of mass destruction] illegally are doing so precisely to avoid containment.” Not every threat required military action. “But we surely have a duty and a right to prevent the

threat [from] materializing,” Blair insisted. “Otherwise, we are powerless to fight the aggression and injustice which over time puts at risk our security and way of life.”⁵ Similarly, the French government, in a defense white paper released days before the U.S. National Security Strategy was issued, maintained that

we must be able to identify and prevent threats as soon as possible. Within this framework, possible preemptive action is not out of the question, where an explicit and confirmed threat has been recognized. This determination and the improvement of long range strike capabilities should constitute a deterrent threat for our potential aggressors, especially as transnational terrorist networks develop and organize outside our territory, in areas not governed by states, and even at times with the help of enemy states.⁶

Meanwhile, President Vladimir Putin insisted in 2003 that Russia “retains the right to launch a preemptive strike.”⁷ Defense Minister Sergei Ivanov later elaborated:

The primary task for the armed forces is to prevent conventional and nuclear aggression against Russia. Hence our firm commitment to the principle of pre-emption. We define pre-emption not only as a capability to deliver strikes on terrorist groups but as other measures designed to prevent a threat from emerging long before there is a need to confront it. This is the guiding principle of the profound and comprehensive modernization of our armed forces.”⁸

More recently, even a country like Japan has embraced the notion of preemption. “If we accept that there is no other option to prevent a missile attack,” then chief cabinet secretary (and now prime minister) Shinzo Abe said in reference to North Korea’s missile capabilities, “there is an argument that attacking the missile bases would be within the legal right of self-defense.”⁹

The UN Response

The emerging sense that preemptive military action was increasingly justified by the changing nature of the threats confronting the United States and other countries was cause for deep disquiet, not least within the

United Nations. “Since this Organisation was founded,” UN secretary general Kofi Annan told the General Assembly in September 2003, “States have generally sought to deal with threats to the peace through containment and deterrence, by a system based on collective security and the United Nations Charter.” While states of course retained the right of self-defense when attacked, “until now it has been understood that when States go beyond that, and decide to use force to deal with broader threats to international peace and security, they need the unique legitimacy provided by the United Nations.” The preemption doctrine thus represented “a fundamental challenge to the principles on which, however imperfectly, world peace and stability have rested for the last fifty-eight years. My concern is that, if it were to be adopted, it could set precedents that resulted in a proliferation of the unilateral and lawless use of force, with or without justification.”¹⁰

The real question this development raised for Annan, however, was less whether certain states were willing to live up to this precept than whether the rules governing the use of force developed in the wake of World War II were still applicable in today’s world of very different, global threats. The UN secretary general appointed a high-level panel of former statesmen (including Brent Scowcroft, Qian Qinchun, Yevgeny Primakov, and Gareth Evans) to answer this and related questions.

The December 2004 report issued by the High-Level Panel on Threats, Challenges and Change revealed an important evolution of thought on the critical question of whether and when to use force. On the question of whether the right to self-defense included a state’s right to use force preemptively when faced with an imminent attack, the panel argued that it does. As to threats that are not imminent but are—like terrorism and weapons proliferation—grave and perhaps growing, the panel concluded that “if there are good arguments for preventive military action, with good evidence to support them, they should be put to the Security Council, which can authorize such action.” Indeed, the panel argued that the Security Council could authorize force against a state as long as it believed such action to be necessary for maintaining or restoring international peace and security. This would be the case “whether the threat is occurring now, in the imminent future or more distant future; whether it involves the State’s own actions or those of non-State actors it harbours or supports; or whether it takes the form of an act or omission, an actual

or potential act of violence or simply a challenge to the Council's authority." Yet, while arguing that there are a broad range of circumstances under which force might be used, the panel declined to endorse the Bush administration's claim that under any of these circumstances states could act on their own. That, it argued, was a recipe for international anarchy rather than international order. "Allowing one to so act is to allow all."¹¹

The panel's views were broadly endorsed by Kofi Annan.¹² However, two critical issues were left unresolved. One is the issue of imminence. Both the High-Level Panel and the secretary general maintained the distinction between threats that are imminent, which states have the right to address themselves under Article 51, and threats that are not imminent or latent, against which force can be used preventively only if the Security Council so authorizes. This assumes that the distinction between imminent and latent threats, which applied at a time when armed attacks required the mobilization of mass armies, is still a useful one. But is it? In a globalized world threatened by weapons of mass destruction and terrorists with global reach, this distinction loses much of its strategic meaning. Once a country has acquired weapons of mass destruction, it can decide to use them with little or no warning, either by sending them aloft on a long-range missile or handing them to terrorists to use at a time and place of their own choosing. That is, the very possession of weapons of mass destruction by some countries can pose an existential threat, whether or not their actual use is truly imminent. It follows that as long as the threats states face are unconventional (including from weapons of mass destruction and terrorism), relying on the conventional distinction between imminent and latent threats makes little sense.

The second issue left unresolved by the High-Level Panel is what to do if the Security Council fails to authorize preventive action when some states believe this is necessary to deal with a mounting threat. This is not a theoretical possibility. As the High-Level Panel acknowledged, "the Council's decisions have often been less than consistent, less than persuasive and less than fully responsive to very real state and human security needs."¹³ It acted late in the case of the former Yugoslavia, ineffectively in response to Darfur, and not at all during the genocide in Rwanda. It refused to take up the matter of North Korea's noncompliance with the nuclear Non-Proliferation Treaty (NPT) until after Pyongyang actually tested a nuclear device, and it has been slow and ineffective in responding to Iran's violation of its NPT obligations. Indeed, there is a long and

growing list of Security Council failures to act promptly and forcefully to maintain or restore peace and security around the world.

Unfortunately, the various proposals by the High-Level Panel and secretary general to make the Security Council a more effective and responsive body are not likely to do so. Even if it were possible to reach agreement on changing and enlarging the composition of the council (which, evidently, it is not), adding more members to the council will only further impede its ability to reach consensus because of the larger number of diverse views. It is useful to set guidelines for deciding whether to authorize force—including criteria derived from the just war tradition, such as the seriousness of the threat, the purpose of the proposed action, the plausible success of alternative means to defeat the threat, the proportionality of the military response, and the likelihood of success.¹⁴ However, their adoption by the Security Council, as Annan has urged, is unlikely to change matters much since key members will continue to perceive threats to international security in different ways. For example, a country like the United States, which has global responsibilities and interests, will view new security challenges as more serious threats to international security than would those countries that have narrower interests and responsibilities.

The same differences, moreover, will apply to judging the applicability of new guidelines to specific cases. Thus proposals to reform Security Council membership and practices will have little impact. While it would be helpful to have agreement on normative standards, the ultimate determinant of Security Council action or inaction will always be the political decisionmaking processes in differently minded and differently situated countries.

Sovereignty and State Responsibility

These difficulties point to a more fundamental problem with the existing UN Charter-based rules governing the use of force. These rules are grounded in two key principles that were the product of a particular era characterized by the end of World War II and the start of decolonization: first, states are sovereign equals, and second, states should not interfere in each other's internal affairs. Changes in the international environment during the past six decades have eroded the continued applicability of these principles, and thus the rules based on them have become much less tenable.

With regard to the first principle, sovereignty is being eroded both from within states and from without. Many states are too weak to control what happens within their own borders, with consequences that can be dire for all. “Weak states,” the Bush administration rightly argued, “can pose as great a danger to our national interests as strong states.”¹⁵ In addition, rapidly increasing globalization challenges the ability of states to control their own frontiers, so developments almost anywhere on earth can pose imminent dangers almost anywhere around the globe. That, after all, is what September 11 was all about. Finally, key actors on the world stage—terrorists, nuclear technology traffickers, international criminal cartels, multinational corporations, and nongovernmental organizations—are powerful and purposeful but decidedly *not* sovereign.

There is, in short, much more to international relations than the interaction of sovereign states. That is a profound change from the world of 1945, with many significant implications, not least the changing nature of the threats and the role of force in dealing with them. The main threat today is no longer the external behavior of states but rather the external consequences of their internal behavior. Just consider, the last three wars the United States has fought were in response to how particular states behaved regarding matters within their borders. The Kosovo war was about protecting the Albanian minority from ethnic cleansing by Serb forces. The Afghanistan war was about the Taliban providing a sanctuary to al Qaeda and Osama bin Laden. And the Iraq war was about the purported development of weapons of mass destruction by Saddam Hussein’s regime.

The UN system was not set up to deal with these types of threats, given that it stresses both the sovereign equality of states and the principle of noninterference in their internal affairs. So it is not surprising that it has proven difficult to gain consensus within the Security Council, let alone among the wider UN membership, both on what constitutes the new threats and how best to respond to them. There was no explicit Security Council authorization for the Kosovo and Iraq wars, and only an implied authorization for using force against Afghanistan. There has been no agreement on what to do with regard to Darfur, despite an international finding that the situation constitutes a very grave humanitarian situation and repeated, post-Rwanda exhortations that the international community must “never again” stand by as genocide unfolds. And there has been no agreement on imposing real sanctions or any other punitive action in regard to Iran’s violation of the NPT, nor has there been any Security

Council response to the discovery that a Pakistani scientist (with or without official connivance) for years ran a veritable nuclear Wal-Mart, selling his knowledge and wares to anyone willing to pay.

In short, the concept of an international system composed of wholly independent, autonomous nation-states that are fundamentally equal and pose a threat only when one state attacks another no longer accords with the real world of today. Therefore, the standards for intervention, as well as the structures for making decisions on whether to intervene, must be adapted to today's realities. The notion of sovereignty as an absolute right to noninterference must be reformulated to recognize that sovereignty entails real responsibilities—both with respect to those who live within the state and with regard to internal developments that can have an impact on those who live outside it.

This changing concept of sovereignty—the notion of sovereignty as responsibility—has become increasingly accepted in recent years. The first step in this direction was the growing recognition that states have a *responsibility to protect* their own citizens from genocide, mass killing, and other gross violations of human rights.¹⁶ The next step is to recognize that the notion extends to other areas as well. It is increasingly evident that states now also have a *responsibility to prevent* developments on their territory that pose a threat to the security of others—such as developments relating to weapons of mass destruction (such as their acquisition or the failure to secure weapons, materials, or deadly agents against possible theft or diversion); the harboring, supporting, or training of terrorists; or environmental dangers (for example, failing to prevent the spread of dangerous diseases or the destruction of rain forests).¹⁷ Because in each of these instances what happens inside a state has consequences outside its borders, what occurs there is of importance not just to the state concerned but to everyone who is or could be affected by its actions or inactions.

The emergence of a new norm of state responsibility raises the important question of what should happen when states fail to meet their responsibilities. The world's leaders, meeting at the UN's sixtieth anniversary summit, already made clear that when a state is unable or unwilling to live up to its responsibility to protect its own people, then the responsibility for doing so falls on the international community. "We are prepared to take collective action, in a timely and decisive manner, through the Security Council . . . should peaceful means prove inadequate and

national authorities manifestly fail to protect their populations.”¹⁸ Similarly, a state’s failure to meet its responsibility to prevent internal developments that threaten other states implies that the responsibility to do so falls to the international community. And the most effective way for doing so will often involve preventive action. Indeed, the best time and most effective way to defeat many of the new threats is before they are imminent—*before* enough fissile material has been produced to make nuclear weapons, *before* weapons in unsecured sites or deadly diseases in laboratories have been stolen, *before* terrorists have been fully trained or are able to fully hatch their plots, *before* large-scale killing or ethnic cleansing has occurred, and *before* a deadly pathogen has mutated and spread around the globe.

Of course, in many of these cases military intervention is not the only, or even the preferred, means for dealing with an emerging threat. As James Steinberg notes in his chapter on weapons of mass destruction, there often are good alternatives.¹⁹ Yet, to address this and other new threats, force will sometimes be necessary. When it is, it often is best used early, before threats have been fully formed, since this will likely reduce the associated costs and enhance the probability of success. The problem with the Bush doctrine, then, is not that it relies on preventive force too much but that it has conceived of its use too narrowly—primarily to deal with terrorism and as a means of forcible regime change. “The number of cases in which it might be justified will always be small,” warned Rice shortly after the administration’s National Security Strategy was released.²⁰ And because its use is reserved for truly exceptional circumstances (“The threat must be very grave. And the risks of waiting must far outweigh the risks of action,” Rice cautioned), the decision to use preventive force must remain a purely national one. “While the United States will constantly strive to enlist the support of the international community, we will not hesitate to act alone, if necessary, to exercise our right of self-defense by acting preemptively.”²¹

That is all well and good when the threat is clearly targeted at one’s national territory or vital interests. But the insistence that states individually—or at least the United States itself—must have the right to decide when preemption is justified is clearly problematic when the threats concerned are global in scope and affect the security of many other countries. Under these circumstances, the decision to use force preemptively cannot be purely a national one. Who, then, should decide?

Who Decides?

For all its flaws, the UN Security Council remains the preferred vehicle for authorizing the use of force in cases other than self-defense, not the least because since the end of the cold war, it has been seen as the most legitimate forum for making these decisions. Consider this: before the Gulf War in 1991, the Security Council had authorized the use of force beyond traditional peacekeeping operations on only two occasions (Korea and the Congo); since then it has authorized force no less than seventeen times in places all around the world.²² Even in the case of the Iraq war, the Bush administration, while it failed to obtain an explicit Security Council authorization, nevertheless argued that war was authorized under prior UN resolutions.²³

Yet in practice the Security Council has not been able to agree in many instances on what internal developments would constitute a threat requiring a forceful response, and it is unlikely to do so in the future. The UN members—including the Security Council and its five permanent members—are deeply divided over the meaning of sovereignty in the contemporary world. Russia, China, and a host of developing nations continue to view absolute sovereignty as the defining principle of international affairs, and they steadfastly maintain that a country's borders demarcate an international no-go zone. What happens within the borders of a state is strictly the concern of the regime that governs that territory, not of anyone else. That is not a view acceptable to the United States and many other countries, which argue that since what happens within states can have profound consequences for others, sovereignty is not just a right but also entails responsibilities that states must fulfill if intervention in their internal affairs is to be avoided. Until the UN members, in particular all of the Security Council's permanent members, fully embrace the logic of state responsibility, investing sole decisionmaking authority with the United Nations is a recipe for indecision and inaction—and increased insecurity.

What are the alternatives? One alternative to Security Council approval is to accept the legitimacy of interventions approved by regional organizations. The model for this is Kosovo, where NATO decided to intervene to prevent a humanitarian calamity, even though the Security Council had failed to authorize the action. Regional organizations are a particularly appealing venue for deciding on the use of force since there

is likely to be a great deal of convergence between those who bear the costs and those who reap the benefits of the action. Moreover, when all of the countries in the region reach a similar conclusion as to the necessity and efficacy of preventive action, the legitimacy of such action will be very much enhanced.

Of course, reliance on regional organizations is no panacea. Some threats are global rather than regional in scope and thus beyond the purview of any one regional organization to handle. There is also the danger that a regional organization may be little more than a pawn of a dominant member. One need only think of the decision of the Association of Eastern Caribbean States to endorse the 1983 intervention in Grenada, the role of Russia in the Commonwealth of Independent States, or, to a lesser extent, the role of Nigeria in the Economic Community of West African States. In addition, regional organizations may also suffer from the same problem of asymmetry as exists in the Security Council (consider the problems within the Organization for Security and Cooperation in Europe when dealing with Kosovo). And, finally, in some cases (as in much of Asia), there may be no meaningful regional organization to authorize a decision to use force.

Which leaves the alternative, should the UN or regional route fail, of relying on a coalition of like-minded states to legitimate decisionmaking on the use of force. Since democracies have a particular interest in upholding the norm of state responsibility, a coalition of democracies would provide such an alternative.²⁴ Democracies understand that in an era of global politics, international peace and justice rest on protecting the rights of individuals. Nation-state sovereignty can no longer be the sole organizing principle of international politics. Since what happens within a state matters to people living outside it, tackling these internal developments cooperatively is vital to the security and well-being of all. Threats to security arising within certain states are matters of concern to the commons and so must yield to legitimate cooperative action arising from the commons. Democracies are open to cooperation to preserve the common good—it is the very essence of how they govern within their own societies, after all—in a way that nondemocracies very often are not. That is why the decision of states to intervene in the affairs of another state is legitimate if it rests with the democratically chosen representatives of the people and not when it depends on the personal whims of autocrats or oligarchs.

No doubt, many will object to this alternative as drawing the decisionmaking circle too narrowly, since by any reasonable count no more than a third of current UN member countries are true democracies—meaning that such countries not only have elected governments but have had, for a sustained period of time, a constitutional system that guarantees their citizens clear political and civil rights. This being the case, a decision reached by a minority of countries can never be truly legitimate—or so many argue. But this argument equates legitimacy with universality—a common conceit of UN spokesmen and all too many of the world’s countries. It reduces the concept of legitimacy to a procedural question: the number of states or votes one can marshal in support of a given action will determine that action’s legitimacy. The nature of the action itself—or of the states consenting to it—matters little, if at all.

This is a deeply flawed conception of legitimacy. Surely the rightness or wrongness of a particular course of action ought at least in part to reside in the nature of the action being contemplated. Indeed, the failure to garner widespread support for forceful action when it may be necessary to reverse a terrible wrong (as, for example, in the case of genocide or widespread humanitarian atrocities) would hardly render such inaction legitimate. Similarly, it surely matters as much to the legitimacy of a given action which states support the action as how many support it. Would anyone seriously argue that an action supported by the world’s many authoritarian countries would, by garnering more votes, be legitimate in a way that an action supported by the world’s democracies would not? Or, conversely, would anyone seriously want to suggest that efforts to stop the slaughter in Darfur lack legitimacy because Sudan, China, Iran, Russia, and North Korea refuse to go along? If so, that is a notion of legitimacy that has lost any sense of, well, legitimacy.

Of course, as Iraq showed, a concert of democracies hardly guarantees consensus on what must be done in particular case; it just is more likely to produce legitimate consensus than in a larger and more diverse group like the UN. Moreover, the experience of organizations of democracies such as NATO and the European Union makes clear that having available a regular framework and structure for debating and reaching decisions on matters as important as the use of force is often more of a help than a hindrance. The need to debate, assess, and reassess an issue or action enhances the likelihood that the ultimate decision will be a better one than would otherwise be the case. The nations of the West relied on such

debate to keep their democracies at home healthy and effective, and they relied on debate within NATO to chart a wise and effective course to fight and win the cold war over many decades. The world's democracies should continue to be relied upon to help reach wise and effective decisions on the use of force in the future.

Of course, if the United States is to commit itself to working with its democratic partners on these central issues, then the other democracies, too, have a major responsibility. They must come to the table not just prepared to debate Washington but also fully prepared to implement the decisions that are reached. This means they must both possess the capacity to deploy a significant amount of force to the most likely loci of conflict (which now spread around the globe) and be demonstrably willing to employ that force when necessary and appropriate. The essential deal to be struck between the United States and its democratic partners on the question of using force must be a true bargain—a two-way street. While Washington must commit to involving the other democracies in decisions on using force in cases other than self-defense, its democratic partners must commit to bringing real capabilities to the table and to using them when a decision to do so is reached.

Conclusion

This is an era in which the use of military force remains a central preoccupation of states and their leaders. In many respects the demand for forceful intervention is likely to continue to grow, as it has ever since the cold war ended. Distance no longer wards off dangers far away; the global interconnectedness of these times means that developments anywhere can have major consequences for people everywhere. An effective security policy must determine ways to intervene early enough to ensure that small, manageable threats do not become big, unmanageable ones. In most instances such intervention can be cooperative, emphasizing diplomacy and economic assistance. But some situations will require the threat or use of military force—and when they do, the use of force early is likely to be more effective and less costly than waiting until it is a last resort.

Preemption, in other words, is here to stay. The hope for the future is that when it comes to making decisions on whether or not to intervene preemptively, the process of deciding will involve detailed information,

probing analysis, in-depth discussion and debate, and a constant willingness to reassess the evidence. It also requires a genuine willingness to bring others into the deliberations—in particular America’s democratic allies, whose perspective on these issues matters greatly. When it comes to the use of force, the American and global debate often narrows the choice to doing it within the framework of the United Nations or going it alone. This is a false choice. An effective and viable alternative to multilateral paralysis and unilateral action is for the United States to work with its democratic partners around the world to meet and defeat the global threats of our age.

Notes

This chapter draws on a number of previous writings that stem in part from the Brookings Institution Project on Force and Legitimacy in a Changing World, including Ivo Daalder and James Steinberg, “The Future of Preemption,” *American Interest* 1 (Winter 2005): 30–39; Ivo Daalder and James Lindsay, “Democracies of the World, Unite,” *American Interest* 2 (January-February 2007): 5–15; and Ivo Daalder and Robert Kagan, “The Use of Force,” in *Bridging the Foreign Policy Divide*, edited by Tod Lindberg, Derek Chollet, and David Shorr (Muscatine, Iowa: Stanley Foundation, forthcoming).

1. George W. Bush, “State of the Union Address,” January 29, 2002 (www.whitehouse.gov/news/releases/2002/01/20020129-11.html).

2. George W. Bush, “Remarks by the President at 2002 Graduation Exercise of the United States Military Academy,” June 1, 2002 (www.whitehouse.gov/news/releases/2002/06/20020601-3.html).

3. Wolf Blitzer, “Search for the ‘Smoking Gun,’” CNN, January 10, 2003 (www.cnn.com/2003/US/01/10/wbr.smoking.gun).

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14. Ivo Daalder and James Steinberg, “New Rules on When to Use Force,” *Financial Times*, August 2, 2004.

15. White House, *National Security Strategy*, p. 4.

16. International Commission on Intervention and State Sovereignty, *The Responsibility to Protect*, September 2001 (www.iciss.ca/pdf/Commission-Report.pdf).

17. For a similar argument, confined to weapons of mass destruction, see Lee Feinstein and Anne-Marie Slaughter, “A Duty to Prevent,” *Foreign Affairs* 83 (January-February 2004): 136–50.

18. UN General Assembly, “2005 World Summit Outcome,” A/60/L.1 (New York: September 15, 2005), p. 31.

19. See Steinberg, chapter 2, in this volume.

20. Condoleezza Rice, “A Balance of Power That Favors Freedom,” address to the Manhattan Institute, October 1, 2002 (www.manhattan-institute.org/html/wl2002.htm).

21. White House, *National Security Strategy*, p. 6.

22. Eric Voeten, “The Political Origins of the UN Security Council’s Ability to Legitimize the Use of Force,” *International Organizations* 59 (Summer 2005): 531.

23. Notably, resolution 678, which authorized the Gulf War; 687, which established conditions for a cease-fire of that war; and 1441, which provided Baghdad with one final chance to implement prior resolutions. See John D. Negroponte, “Letter to the President of the Security Council,” March 20, 2003 (www.un.int/usa/s2003_351.pdf).

24. The case for creating a “concert of democracies,” is detailed in Ivo Daalder and James Lindsay, “Democracies of the World, Unite,” *American Interest* 2, no. 3 (2007): 5–15. For variants on this alternative, see also Stanley Hoffmann, *World Disorders: Troubled Peace in the Post-Cold War Era* (Lanham, Md.: Rowman and Littlefield, 1998), p. 80; Thomas M. Nichols, “Anarchy and Order in the New Age of Prevention,” *World Policy Journal* 22 (Fall 2005): 14–20; and G. John Ikenberry and Anne-Marie Slaughter, *Forging a World under Law and Liberty: U.S. National Security in the 21st Century*, September 2006 (www.wws.princeton.edu/ppns/report/FinalReport.pdf), pp. 25–26, 61.