
PREEMPTIVE USE OF FORCE: A REASSESSMENT

Panel 2: The Strategic Environment

Moderator: Stephen W. Bosworth

Panelists: Ivo H. Daalder, Stephen Walt, Lt. Gen. Bernard E. Trainor

Friday, October 1, 2004; 10:45 A.M.



BOSWORTH: In the interest of time, I suggest we begin. I am Steve Bosworth, I have the pleasure of being the Dean of the Fletcher School, and I would like to welcome you all to this conference and welcome you to this second panel discussion.

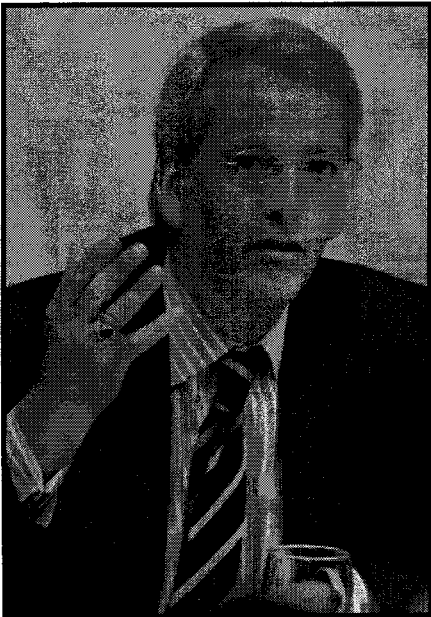
My role in this panel is sort of similar to that of a talking potted palm. I am going to sit here and direct questions to the extent that questions can be directed. But first let me very briefly introduce the members of the panel, going from my immediate right to the far right of the table. First of all, sitting next to me is Ivo Daalder from the Brookings Institution. On his right is Steve Walt from the Kennedy School of Government. And on the far right of this table is General Bernard Trainor, and there are brief biographic sketches of each of the members of the panel available to you, and I think you all have those. I will not cut into the discussion time by citing their long and distinguished CVs.

The topic of this panel is the strategic environment—the strategic environment obviously within which a consideration of the doctrine of preemption is taking place. So without further ado, let me begin, is there any particular order you would like to speak in?

DAALDER: Let's walk down the table.

BOSWORTH: Walk down the table. Ivo?

IVO H. DAALDER



Well thanks very much, thanks for inviting me to this conference. I would say that had we done this a year ago, it would've been, I think, a very different conference than it is today. And the proof in the pudding lies in the President's answer to Jim Lehrer's question last night, "What were the criteria for future preemptive action?" And he said, "I believe in diplomacy."

So I think that tells you a lot of how things have changed in the year or so since this was a hot topic. But that doesn't mean that the issues raised by Iraq, by preemption, by the doctrine of the Bush Administration aren't important issues. And even if the debate is a little less heated these days, it doesn't suggest that the debate is at all solved.

I want to start with a proposition and then marshal on to a proposed solution. And the proposition is that the Bush preemption doctrine was a response not just to 9/11, but really to the breakdown of the traditional UN framework for determining whether and when to use force. And that somehow we would've come to this point, perhaps not as bluntly, perhaps not as quickly, but we were going to get there sooner or later. And that we ought to look at the Bush preemption doctrine not so much in terms of what George Bush thinks and believes, or even in terms of what the post-9/11 world means for international security, but really for a fundamental beginning of a new debate about when and how to use force. And I want to come at the end to suggest an answer that we probably need a new kind of framework to supplement, if not supplant, the UN framework.

The framework that we have been living under, the framework we discussed in our first panel, and indeed the UN system as a whole that we have been discussing, is based on three fundamental premises. One, that states are sovereign equals. Two, that aggressive wars constitute the key threat to international peace and security. And three, that the great powers, that is specifically the Permanent Five, have similar views on the nature of the threat and how to respond to such threats. Those were the three fundamental principles that under-gird the Charter and the Charter system. None of these premises should be surprising for an organization founded in the wake of history's most destructive war.

Yet whether they ever applied is less important than the fact that I think they no longer apply today. Let's look at each of these premises in turn. The notion of sovereign equality: that principle fails to recognize that some states, not least the United States, are more equal than other states. And indeed the Charter recognizes, as Sean Murphy pointed out earlier, that there are at least five states who have different rights, who have a different standing, under international law. The United States remains, in the phrase of Madeline Albright and Bill Clinton, for all intents and purposes the indispensable power in a way that no other state is likely to be anytime in the near future.

More importantly, the entire concept not of equality but of sovereignty is now being eroded both from developments within states and from developments outside. Many states in our current international system are simply too weak to take care of even the basic prerequisites of what it means to be a sovereign country. And indeed, there are developments that are happening in their own territories, that they cannot, will not, or are unable to control, and yet that have major impact on international security. Think of what happened in Afghanistan in the 1990s, and until November 2001.

Secondly, globalization challenges the ability of states to control the basic attributes of states, that is, their borders. Distant developments can pose imminent dangers from almost anywhere in the world. And indeed that was the lesson of September 11th.

Third, to deal with these global challenges states have pooled and shared their sovereignty. They have given up freedom of action as an attribute of state behavior in order to be more effective in cooperating together to deal with the kinds of things that are most to their concern.

Finally, and most importantly, we have seen the emergence of a new sense that sovereignty may in fact be conditional, in that states have a responsibility to behave in certain ways with regard to the peoples in their territory, and they have a duty to prevent developments on their territory that may threaten international peace and security. If I can quote and paraphrase both the Responsibility to Protect Report, the Sahoun-Evans commission, and the Anne-Marie Slaughter-Lee Feinstein argument on the duty to prevent: There is something happening with

regard to our conception of sovereignty that is making it increasingly conditional on how states behave with regard to their peoples, and with regard to the developments on their territory.

So that the concept of an international system, composed of wholly independent, autonomous nation-states that are fundamentally equal, which is at the very heart of the UN Charter system, and indeed at the very heart of the entire discussion we had in the first two hours, that concept frankly just does not accord with the reality of the world that we live in. That may be a “realist” argument or not. I would just submit it is a fact.

That’s one change. Second, this change in the strategic environment has profound implications for the nature of the threats that we now face. The main threat no longer is the external behavior of states, it is rather their internal behavior, and how that internal behavior can threaten international peace and security.

Just consider the last three wars the United States has fought. These were not in response to the external behavior of states; they were very much because of the internal behavior. We went into Kosovo because Serbia was about to, and had started already, a campaign of ethnic cleansing against its own population, in its own territory, in its own state.

We went into Afghanistan because it was providing a sanctuary for al-Qaeda. Yes, al-Qaeda had attacked us, but it was the sanctuary that Afghanistan and the Taliban were providing that led us to Afghanistan. And third, it was the purported development of weapons of mass destruction, and what might or might not happen with these weapons, that led us to go to war against Iraq. In other words it was internal developments that were driving our felt need to intervene. The threat was not what one was doing externally across borders, but what was happening within them.

Now the UN system was not setup to deal with that type of threat, given that it stresses both the sovereign equality of states, and under Article 2(4) the principle that one should not interfere in the internal affairs of states. As a result, it has been very difficult to gain the consensus among the great powers, or indeed the Permanent Five, on what constitutes a threat and how best to respond to it. We talked earlier about the fact that there was no formal UN Security Council authorization for the wars against Kosovo and Iraq. We may find legal basis for it, but there wasn’t a formal authorization in the way, for example, UN Resolution 678 formally authorized the use of force to expel Iraq from Kuwait.

There was in fact only an indirect authorization for the war with regard to Afghanistan, though I think it’s a much stronger legal basis. There is no agreement within the UN Security Council today—ten years after never again, 60 years after never, never again—there is no agreement that despite the presence of genocide in Sudan, we should do anything about it. And in fact the Chinese and other members of the Security Council have consistently opposed taking even the

first step to threaten the imposition of sanctions. There is no agreement today, on either sanctions or any other punitive action, to deal with the threat posed by North Korea deciding to walk away from the nuclear Non-Proliferation Treaty, after having violated it. And there is no agreement today on how one should deal with Iran. Even if an agreement may occur by November to send the issue to the Security Council, all we will do is send it to the Security Council, where, like the North Korea issue, it will sit without any action.

Therefore we are faced with this dilemma—by the way, a dilemma which we faced from about 1946 to at least 1990—that the greater powers in the Security Council do not agree on what constitutes a threat and how to deal with it. The preemption doctrine that Bush announced, and I would argue the practice of preemption—I'll go back to that in a minute—that preceded the Bush Doctrine and indeed the Bush Administration, in my view is a direct response to this fundamental reality that the system that was set up to deal with how and when one needs to use force is no longer able to generate the kind of activity deemed necessary to deal with the threats that are out there.

As we all know, the Bush Doctrine asserts the right of a state, or at least of the United States, to use force to deal with threats before they are fully manifested. The argument is that the diffusion of technology means that weapons of mass destruction can now be acquired by anyone—not just Libya, or Iran, or North Korea, or Iraq, but indeed by non-state actors; that for rogues and for terrorists, weapons of mass destruction are not weapons of last resort, they are weapons of choice; and that therefore the notion that one should rely on strategies of containment, strategies of deterrence, or indeed on strategies that rely on waiting until the threat is both actual and imminent—to use Gilles Andréani's words—are strategies that are likely to fail. They are not likely to prevent the eventuality that you're seeking to prevent.

Therefore effective self-defense, or indeed an effective means to deal with the threat, has to include the right to preempt that threat. Given that the nature of the threat is much more difficult to determine than it was when armies had to mass on borders—and in fact that in some instances you can only determine the existence of the threat after it has been manifested—the notion of imminence, as Toni Chayes reminded us, now can no longer just be defined in a temporal way. It has to be defined in other ways. And the Bush Administration with regard to WMD argues that certain actors acquiring weapons of mass destruction, it is that act that in fact is the last time we can interfere.

My argument, for example, my answer to the question that Michael Glennon posed to the panel earlier with regard to North Korea, is when the fuel rods were in the ponds, that was the last time you could take them out. After that there is nothing more you can do until the point at which the threat is actual and imminent. And from a strategic perspective—and I would argue from a world

order perspective—we have to find ways to deal with the threat at the point that we can still deal with it and not just at the point in which it is too late.

But preemption is not just about weapons of mass destruction and terrorism as the administration has argued. A good case can be made that preemption is necessary in other situations. I agree with two of the previous speakers that the Kosovo War was a preemptive war. It was designed to preempt a humanitarian catastrophe. Yes, it was humanitarian intervention, but it was designed to preempt that humanitarian reality. I would argue that we should have intervened in Rwanda and in Sudan for humanitarian reasons, to preempt them, before it is too late. I think we're at the beginnings of seeing preemptive wars for environmental reasons in Northern Africa. The locust swarms led people to argue to use military force, to go into countries in areas to spray pesticides preemptively for environmental reasons.

What do we do with a country that doesn't allow the WHO in to determine whether the Avian flu influenza is attacking its population and doesn't really want to deal with the reality of what this may mean. We're at the cusp, in the world of globalization, of arguing that states, in fact, and actors, international actors, may need to intervene, may need to get into other states, and may need to violate their sovereignty, in order to protect us because distant threats can hurt us at home much more quickly than used to be the case before.

Now the preemption doctrine—and I don't want to minimize it—is not without its problems. And I'm sure that others in this panel will go into greater detail on what those problems are. There is the fact that there is a distinction between preemption and prevention: that other presidents confronting George Bush's choice in 2002 and 2003—whether it's Truman in 1948, Kennedy in 1962, Johnson in 1964—confronting exactly the same challenge—do we go in and target a country because it is posing a nuclear threat to us?—decided not to in part because preemption has serious consequences, as in fact we're learning in Iraq today.

But the biggest problem with the doctrine is the problem that some of our questioners in a previous panel pointed out. It is that if we embrace it, others will too. The Russians have done so with regard to Georgia, the Indians are doing so with regard to Pakistan, and God knows who else is going to do it in the future. One person's preemptive attack is another person's aggressive war. And the figuring out when one is one and when the other is the other is the key task. And that raises the point not just of legality, but of legitimacy. And I think the biggest problem that the administration has is it has ignored legitimacy. Or, in fact, it has argued that legitimacy arises from the effectiveness of one's actions and the purity of one's motives.

Bush's argument is because our motives are pure, because our action will be effective, our action will be deemed legitimate. The Problem of course is that not everyone buys the notion that our motives are pure; nor is *ex post facto* legiti-

macy automatic, particularly if the reason for going to war turns out to be fundamentally mistaken—the question of information that Jack Goldsmith raised earlier on.

Yet, the traditional form of legitimacy—going to the UN Security Council and getting them to vote on it—just doesn't work for all the reasons that I laid out earlier. It's a ponderous process that often delays action until well after preemption is effective. And there is no consensus on the threat and the response. Should we really allow a Russia, engaged in its own genocidal war against the Chechnyans, to determine whether the international community should intervene to prevent the next genocide in Sudan? Should we really allow a China, singularly focused on obtaining sufficient energy to feed its industrialization, to veto imposing an oil embargo on Iran, when we and the rest of the international community may believe that that is the last best effective way to deal with the threat of Iranian nuclear weapons? I don't think so.

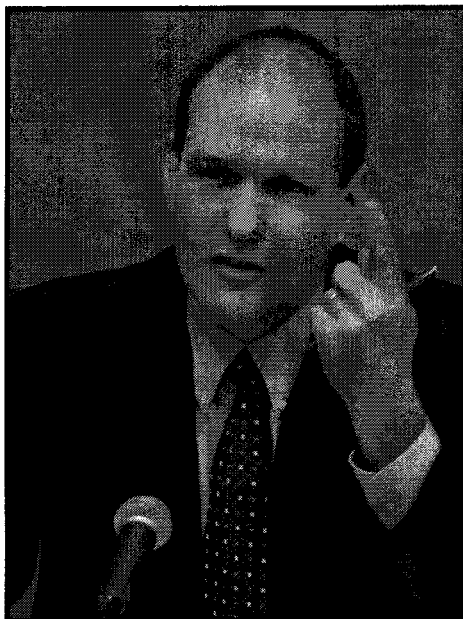
That's not a legal judgment; it's a political judgment. But what does that mean? Where do we go from here? Let me suggest the possibilities of the beginnings of how to think about this, though it's certainly not going to be the last word. Preemption isn't the problem. The problem is our failure to gain international consensus on when to engage in the preemptive use of force. One clear guide for U.S. policy, and now I'm shifting to the policy-making mode, is that if you can't convince like-minded countries, democratic friends in Europe and elsewhere, about the threat, the problem may be with your argument for going to war, rather than with them.

I would argue that one of the lessons we should take away from Iraq is the failure to get major friends of ours to agree on the threat says a lot about our arguments and less about theirs. But we need to go further and seek to obtain agreement among like-minded countries, our democratic friends, on the conditional nature of sovereignty itself. It is conditional on how states behave internally with regard to their own people, and in terms of the developments that threaten others. Ultimately it is in fact conditional on the character of their governments. Open and democratic governments can be more trusted than closed and autocratic ones.

And I would argue that having an international system or at least a foreign policy that seeks to band together those who have open and democratic governments in an alliance of democracies, to deal with the conditionality issue is one way we may start moving toward a system that is more consistent with the reality that we face today, rather than trying to adapt a system that has been overtaken by that reality itself.

BOSWORTH: Thank you very much, Ivo. Steve Walt?

STEPHEN WALT



Thank you. I want to focus my remarks on the strategic environment in which this doctrine was developed and indicate why I think it was a bad idea. When the 2002 National Security Strategy was released there was a lot of outrage expressed both in the United States and abroad, basically arguing it was illegitimate, unfair, and immoral for the United States to say it was going to go war merely because it had some suspicions about some country's capabilities. As a realist, I didn't think it was immoral or outrageous. But as Jack Goldsmith forecast, I did think it was a bad idea. Or to borrow the famous

line by Talleyrand: it was worse than a crime; it was a blunder.

To show why I think so, I want to first clarify what we're really talking about here, then describe the current strategic environment, and then give you my reasons why I think a doctrine of "preemption" doesn't make sense for our country.

First, what are we talking about here? The title of the conference uses the word preemption, but that's not what we're talking about. Preemption has a precise meaning: it refers to striking first in anticipation of an imminent attack, so as to gain a military advantage. In a *preemptive* war, you know the enemy is planning to attack you and you want to get in the first blow to disrupt that attack or to gain other advantages. Preemption is clearly an act of self-defense because the enemy is really intending to attack you. It's considered legitimate in international law and in just-war theory.

Preventive war is quite different. A preventive war is fought to prevent a shift in the balance of power, i.e., to prevent an enemy from increasing its capabilities, whether that enemy has any intention of attacking any time soon or not. Preventive war is *not* permissible in international law and is forbidden in just-war theory because it entails going to war against a country that hasn't attacked first, shows no signs of intending to attack, and may in fact never be in a position to attack. It's a decision for war based on a guess about the future.

Now this distinction used to be quite clear. What's happened in the last several years, I think, is essentially an example of Orwellian word-speak. The

Bush administration is using the word preemption to describe something that we've all regarded as illegitimate, in order to make it look more permissible. And the war in Iraq, which is the first manifestation of this doctrine in action, was quite clearly a preventive war, not a preemptive war.

By the way, there is also a big difference between "preventive war" and taking preemptive action against an al-Qaeda cell somewhere. After all, al-Qaeda has declared war on the United States; [it] has already attacked us repeatedly. There's a big difference between going after al-Qaeda and taking preventive action against a country that is not at war with us, is not supporting al-Qaeda, and is not even close to being in a position to threaten the United States militarily. These are two quite different things and we ought to keep them distinct.

Second, what's the current international environment? Here I'll probably disagree a little bit with Ivo. As a realist, I regard the international system as anarchic. There's no world government out there that's going to protect states from each other or stop them from doing things that they believe are in their interests. We still live in a world of many separate states, where nationalism remains an extremely powerful political force. Indeed, nationalism is probably the most powerful political ideology on the planet. (I'll come back to that in a second.)

Third, we also live in a world where the United States is the dominant power militarily and economically, in a position unprecedented in modern history. And that is the main reason why we're having this conversation, right? The United States thinks it can do just about anything these days. Because of that dominant position and because of the policies it has followed in recent years, the United States is now regarded with greater fear, suspicion, hatred, and concern around the world than probably any other time in its history. That is not true everywhere, of course, but the global trends are unmistakable.

Fourth, and here I agree with Ivo, it's a world that is increasingly interconnected, which means that we worry about things that are happening all over the world. But it's also a world that worries a lot about what *we're* doing because the things we do are going to have reverberations in every corner of the globe.

Fifth, today's world is one where technology and the know-how to acquire weapons of mass destruction is increasingly widespread and increasingly hard to contain. It's increasingly easy for a state that really wants to get weapons of mass destruction to make a good run at it, even within the framework of the Non-Proliferation Treaty.

And finally, it's a world where the United States and other states face a clear threat from international terrorism and where dealing with that threat will require active enthusiastic, 24/7 cooperation from many countries for many years.

Just a footnote to what I've just said—it is also a world where the basic principles of deterrence still operate and where new nuclear states are not likely to use those weapons to blackmail us because they know what would happen if

they tried. Nor are they likely to give them away to terrorist groups. We might want to debate that, but again, I don't think 9/11 changed that fundamental reality very much either.

So given that environment, does it make sense to place preventive war at the heart of American national security strategy? There are six good reasons why it doesn't.

Problem number one: why put the doctrine of preventive war up in bright lights? Whether we like it or not, preventive war is in fact an option for everybody. No agency or institution can prevent a state from waging a preventive war. And obviously it's an option for us because we're bigger and stronger than anybody else. Even if we said we would never wage a preventive war, our enemies aren't going to believe us. So it's not clear what we gain from emphasizing this policy in presidential speeches and official policy documents. It won't scare our enemies very much, and it makes us look trigger happy, too eager to shoot first and ask questions later. Moreover, putting this policy in bright lights also puts American credibility on the line. If we say we're going to go after any rogue state that starts getting weapons of mass destruction and if we then leave some of them alone, people will start wondering if our threats should be taken seriously. But if we'd never said anything about it, we wouldn't have raised that problem.

Problem number two: this doctrine encourages other states to balance against us. As I said before, the United States is the 800 pound gorilla in the international system. That makes lots of other countries nervous, including our allies. And, if you don't believe me, just ask yourself how the United States would feel if some other country were in the same position, relative to us, that we are now in relative to the rest of the world. Would that make Americans nervous? Of course it would, which is why of course the National Security Strategy proclaims that a central goal of U.S. grand strategy is to make sure that no other country ever achieves the same position that we're now in. But if we weren't number one, and the leading state declared it would, if necessary, take military action against any country it believed might become a threat at some point in the future, then isn't it likely that we would regard that as threatening? I think that would make us very uncomfortable.

In other words, a doctrine of preventive war encourages others to start looking for strategies that can check American power. At a minimum, they can withhold support for us in international forums. And even more importantly, some of those countries will start looking for ways to counter us directly. How will they do that? By trying to acquire weapons of mass destruction, of course, which will enable them to deter American military intervention. So a strategy that's intended to prevent proliferation turns out to be one that may in fact encourage it.

Problem number three: As Jack Goldsmith and others have already noted,

waging preventive war rests on accurate intelligence. Unfortunately, this is likely to be in rather short supply. We've missed a lot of things we should've seen, and we've thought we've seen a lot of things that didn't actually exist. Potential adversaries are going to try to conceal what they're up to and intelligence capabilities are going to be inherently limited, especially with respect to rogue states. Preventive war is always based upon some assumptions about the future, but the future is always inherently unknowable.

To make matters worse, there will always be groups in the United States and in foreign countries who will want to get us into a war with others. And so they'll feed us bad intelligence to lure us in. And again, our track record suggests that the United States is especially vulnerable to those sorts of blandishments. Last but not least, our leaders won't be able to make all the information at their disposal public without compromising sources and methods. So the decision to wage preventive war will always be hotly debated. Even if we really did have smoking gun-type evidence, we might not be able to talk about it.

Needless to say, it's hard to view our first attempt to implement this doctrine (in Iraq) as an encouraging example of the reliability of American intelligence.

Problem number four: I call this the ownership problem, and *New York Times* columnist Tom Friedman refers to it as the Pottery Barn rule: "You break it, you bought it." In the current strategic environment we can't truly disarm a country without removing the regime. Just going in and bombing a bunch of centrifuges won't solve the problem, because they can always reconstitute the centrifuges and get back to work. So we've got to get rid of any regime that's interested in getting weapons of mass destruction in the first place because bombing them merely increases their incentive to acquire a deterrent that will force us to stop bombing them. The problem, of course, is that once you remove the regime, you end up being responsible for running the whole country. And the real problem here—it gets back to what I said about the strategic environment—is the simple fact that foreign occupiers are rarely popular. The entire history of the 20th century shows that trying to govern alien populations by force doesn't work. It's what destroyed the Austro-Hungarian, Ottoman, Russian, British, and French empires. It didn't work for the Israelis in Lebanon, it didn't work for the Soviets in Afghanistan, and it's not working for us in Iraq. And just imagine what taking over North Korea or Iran would be like. Does anybody here want to try and govern those countries?

So, preventive war is not a very attractive solution to the problem of weapons of mass destruction. And if you can't solve the weapons of mass destruction problem with preventive war, then what's the problem you *are* going to solve? The threat of WMD is the only real justification for preventive war but the prescription doesn't cure the disease.

Finally, as Ivo has already noted, there is this precedent problem. By declaring that preventive war is an effective policy option for us, we make it easier for others to see it as an effective policy option for them. Why can't India attack Pakistan before it develops more nuclear weapons? Why can't Turkey attack Iraqi Kurdistan to prevent the emergence of an independent state there? Why was it wrong for Serbia to take preventive action against the Kosovars, given that there was a guerilla army attacking Serbs in Kosovo, and given that the Serbs could see a long term threat to their national security if the Kosovar-Albanians got more and more politically organized and tried to secede? Why couldn't a stronger China decide that America's national missile defense program was a direct threat to their nuclear deterrent capability, and therefore decide to order a preventive commando strike against American radar sites in Alaska? Now this sounds wildly far-fetched, of course, but imagine the situation being reversed. Imagine if another country threatened our second strike capability, wouldn't we have looked for some way to prevent that from happening? Of course we would. So again, we're creating a precedent here.

Sixth and last is the "civil liberties" problem. Preventive war is justified by a president's independent claim that he or she has some information suggesting that war now is essential to avoid some not-too-clearly specified set of dangers down the road. Launching a preventive war requires enormous trust in government authorities, and it requires precisely the level of trust the Founding Fathers warned us not to assume. "If men were angels," Madison wrote, we wouldn't need institutions or constitutions or laws. Alas they aren't. That's why we have a republic, and that's why we give war-making power not to presidents but to Congress, however weak and unreliable a constraint that has become.

If we start basing national security policy on identifying *potential* long term threats and dealing with them in advance, we're handing the president the authority to conduct foreign policy based on very uncertain guesses about what *might* happen later. We are, in short, giving him the authority to wage war without permission.

In the last few months, we've all probably Abraham Lincoln's warning: "Allow the president to invade a neighboring nation whenever he shall deem it necessary to repel an invasion and you allow him to make war at pleasure. If today he should chose to say he thinks it necessary to invade Canada to prevent the British from invading us, how could you stop in? You may say to him, 'I see no probability of the British invading us,' but he will say to you, 'Be silent: I see it if you don't.'"

And what prevents this trend from proceeding further? What really worries me is the combination of neoconservatives who are interested in preventive war, and liberal internationalists like Ivo who want to solve all of the other world's problems, including using military force to do that. I think this approach to foreign policy ultimately commits the United States to a nearly endless series of wars and interventions, whenever some problem or whenever some dangerous state emerges. We should not forget that the people who got us into war against Iraq thought that was the first step in a larger campaign of "regional transformation." If it had gone better, they had more ideas on that particular road. If we follow that course, I think we end up in an endless series of wars. And I think that eventually has very corrosive effects on American democracy. Nations that spend a lot of their time fighting serious wars around the world usually end up becoming more and more militarized and less and less open.

Consider the implications. If you can wage war on the basis of suspicion alone, then surely you can incarcerate people just because they also seem suspicious. Why not tap their phones and e-mails because someone has an Arabic name, or because they happened to stop in Bahrain or Islamabad on their last foreign trip, or because they have a subscription to *The Nation*, or they gave money to moveon.org, or, God forbid, they went and saw a Michael Moore film?

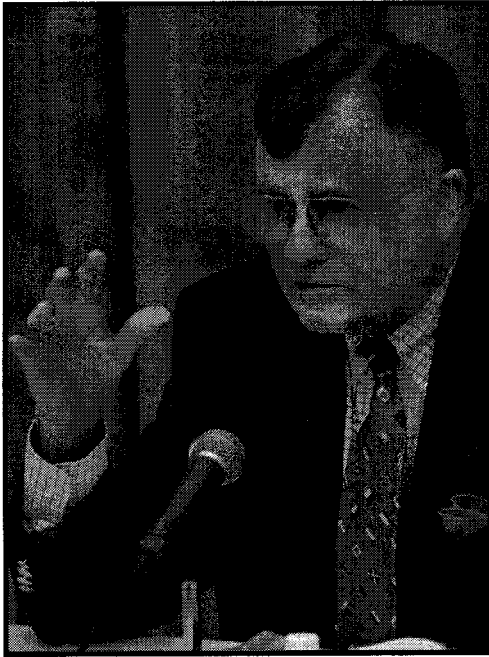
Now that sounds a little bit paranoid and I should probably admit that I don't really think it's likely. But how many of us would have predicted Guantanamo and Abu Ghraib four years ago? In short, a doctrine of preventive war is another step in the centralization of presidential power, and there's no reason to think that any president should be trusted with that much.

So I hope my bottom line is pretty clear. I think the option of preventive war is always there. Nothing we can do or say will eliminate that option. A declaratory policy and a military doctrine organized around preventive war is not in our national interest. It brings us no benefits; it's very costly in terms of global image, and it encourages states to seek various means of deterring us. And as a practical option, preventive war will rarely if ever be attractive. The intelligence isn't there for it. The costs of occupation will outweigh the benefits. In short, the great German statesman Bismark was right: "Preventive war is committing suicide for fear of death." Thank you.

APPLAUSE

BOSWORTH: Bernard Trainor, please.

 BERNARD E. TRAINOR



Thank you. Steve, you mentioned just war twice in your remarks, and I'm glad you did. Because when I received the schedule, "Preemptive use of force: a reassessment," and it states that the panelists will share their ideas on the legal, strategic, diplomatic, and military issues raised by this policy, I had a sense that there was something missing about the use of force in a preemptive way. What were the philosophical underpinnings of this sort of action? And, I think we come down to what Steve alluded to, the just war tradition of this country, and indeed of the Western world, based on a Judeo-Christian tradi-

tion of the nature of war and the legitimacy of war. So I felt it might be useful to enrich the discussion by just taking a look at what the just war tradition has to say about preemption.

It was a difficult problem for this tradition to grow in a Roman world, when there was a commandment given to the Jews that thou shalt not kill. Now how could the Christians consider warfare at all? Some of them refused to consider it. But the early fathers came around to the idea, of course, that you can kill if there are considerations that override the presumption against killing, and the logical one of course was self-defense. And thus we have the start of what later has become known as the just war tradition. That happily under girds the American philosophical approach to war in two categories: the justice of war—going to war, and the justice of conduct in war. And I will, for our purposes here, talk just about *jus ad bellum*: going to war.

They came up with a checklist which has emerged over the years. The principles of *jus ad bellum* are expressed in a variety of ways, but the generally acceptable ones are as follows—and this is war in general: The cause must be just, it cannot be a fiction, and normally it's viewed as a defense against aggression—Article 51 makes that very clear—and to aid a victimized party, to right a wrong, or to punish a gross injustice. It must be a just cause, and it can only be initiated by proper authority. Historically this meant whoever was sovereign—that was the legitimate authority to enter into war—and more recently there is the growing

presumption that this would mean the United Nations. There must be a right intention—this not being a self-serving motive; no hidden agenda—and this is connected obviously with the just cause. There must be a reasonable chance of success. You can't play David and Goliath; you can't accept wastage with the certainty of failure. And this gets back really to a question that a lady had at the end of the last session about the business of surrendering. There must be proportionality—that the good must outweigh the bad that's involved in war, which is essentially evil. And there must be the protection of the innocents. And it must be the court of last resort. Now, there are arguments over this. That, you know, you can go on endlessly and never go to war because you can always find a reason to say that's not the last resort. But I think the generally accepted approach is that when all other remedies have been found wanting, you exclude the impractical and the ineffective solutions. That would constitute the legitimacy of fulfilling the criterion of the last resort. And finally the goals must be limited. You must be going to war specifically in limited means.

Now, let's go back 1600 years to kind of the birth of the just war tradition, which has changed over time. Ever since the Treaty of Westphalia and the emergence of the nation state, the just war tradition applies generally speaking—and the UN is a reflection of this—applies to sovereign states in violation of the international community or the rights of another sovereign state. But it wasn't always thus. When St. Augustine, the Bishop of Hippo sixteen hundred years ago, wrote *The City of God*, he was wrestling not with the business of a sovereign state. There were no sovereign states. What he was wrestling with was society, with the disintegration of the Roman Empire and the rise of the barbarians. And he argues in his *City of God*, "Perfection is found only therein," meaning the city of God, heaven. "An earthly, secular city," the Roman Empire, "Is evil." And it was evil, certainly to the Christians.

"But it is imperfectly necessary, if man is to live an ordered existence on earth. It is all that stands against political and moral chaos." Its instrument is the soldier, who he defines as a true peacemaker: "He serves not in defense of the evil state, but in response to the threat of disorder to civilization."

So there was kind of the basis for preemptive or even preventive war. It was not necessarily serving a noble state, but serving a noble cause of protecting society. 9/11 created a threat to peace not in traditional terms. State borders were not being threatened by other legitimate states, the outcome of the Westphalian approach, and growth of the just war concept. Rather, societies were being threatened by amorphous, transnational actors like al-Qaeda.

This is a new form of war that not only challenges international organizations like the United Nations, but requires a fresh look at the precepts of *jus ad bellum*. Again, I remind you that the UN was founded to prevent cross-border aggression between states. Its authority is not absolute, and in no way do sovereign states surrender their authority to the control of their own destinies.

But with the rise of terrorism, this transnational problem that is separate from state sovereignty, came the proliferation of weapons of mass destruction, and as pointed out in an earlier panel, the relative ease of manufacture, transport, and delivery. We also have witnessed, in the post-Cold War era, the breakdown of society, the bankruptcy of states, and the frightening outbreak of ethnic, tribal, religious, and intra-national conflict. The nation-state system seems to be dissolving, at least in certain characteristics.

So what do you do about sovereign states that are covertly aggressive and voluntarily or unwillingly harbor international terrorists? What is to be thought of a nations' inviolability when criminal proceedings, deterrents, or containment therein are inapplicable or ineffective? What is to be done about rogue states that secretly provide aid and weapons to terrorists, particularly when those weapons can cause mass destruction? I would suggest that this is the conundrum that we face today, but we can go back to St. Augustine for some help on this, as part of the tradition of just war. Augustine accepted war as a legitimate instrument to protect civilization in an imperfect world. As nation-states, as I mentioned earlier, did not exist in his time, the protected entity was society, not a politically defined boundary. He made no excuse for an imperfect society but raised the question, "What would replace the imperfect but acceptable in the world that existed?" It's a lesser of evils question.

Augustine went further when he told a Roman correspondent that as reprehensible as it was, *pax romana* had the obligation to take action against those who would destroy civilization. There's kind of an echo there of what we face today, albeit in different terms than it was in his time, but certainly very similar to the nuclear threat that we face in the hands of amorphous, transnational terrorists.

Augustine's argument fulfills the first *jus ad bellum* principle—that of a just cause—and accepts the necessity for a proactive remedy regardless of sacrosanct boundaries and sovereignty, regardless of the less than perfect states that al-Qaeda type terrorists target. Preventive action is not only legitimate but an obligation, if the authorized leaders of the threatened states are to fulfill their obligations to defend and protect those whom they serve.

Later, Thomas Aquinas in *Summa Theologicae* puts it this way: "It is the moral obligation of rightly constituted civic authorities to defend the security of those for whom they have assumed responsibility and obligation to defend, and the peace of order against the threat of chaos." Notwithstanding recent Vatican pronouncements, the Catechism of the Catholic Church also addresses the criterion as to who is the competent authority to make war in the face of moral threats. And it wrote, "The evaluation of these just-war conditions for moral legitimacy belongs to the prudential judgment of those who have the responsibility of the common good." In other words, the leadership of a nation. To use

Augustine's words, "It is a mournful work, sustaining relative good in the face of greater evil." Now it's clear that the just war tradition does not outlaw preventive war, nor restrict its authorship.

But the burden of proof for its justification is much more stringent than war against aggression or for humanitarian intervention. The legitimate authority requirement goes farther back and stands independent of the United Nations or other international institutions and international opinion. The world was appalled by 9/11 and accepted the American proactive response against al-Qaeda and the sovereignty of the Taliban's Afghanistan. The President responded—a just cause for action within his legitimate authority.

Preemption is a question of just cause. It is not a question of legitimate authority or the morality of preemptive war. If the legitimate authority feels that he is threatened—and this President obviously has felt that way with Iraq—it was his constitutional duty, and certainly in the long tradition of the legitimacy of warfare in the just war tradition, to take the action that he felt was necessary to protect those for whom he was responsible. You can argue the legitimacy of his judgment on it, but in terms of the philosophical authority to do so, I don't think there is any question. So the idea of preventive war, with that full understanding of the just war tradition, comes down the nitty-gritty of the specific circumstances which have to be weighed, including external concerns as well as internal concerns, if you are going to unleash the dogs of war in a preemptive way. Thank you.

BOSWORTH: Thank you very much. I think you will probably agree with me that we have had three distinctly different points of view expressed on these sets of complicated issues. And I suspect we're about to hear more because I'm going to open now the discussion to the floor and invite people to pose questions. And I will try to alternate from one side to the other, but let me begin here please. If you would please identify yourselves as you're asking the question.

QUESTIONS AND ANSWERS

STEVE FLANAGAN, NATIONAL DEFENSE UNIVERSITY

I have a question. I want to get to how the strategic environment shapes the realistic policy options that we have, but I want to back into it with a comment first of all. Steve Walt's characterization of the preemption doctrine, I think there was a little bit of an effort to—people have seen this as an overarching, shaping, and driving force in the administration's approach. And I think it's important to remember the way, when you talk to people who are behind the strategy, what they thought they were trying to do was to try to prepare, in very much a post-9/11 environment, the concern about a

nuclear 9/11. And the President's speech in July of 2002 to alert the wider public that there was this potential of terrorism and weapons of mass destruction coming together, and the government had to have options to deal with that threat in advance of actual use. In other words, that there might be circumstances.

And we've continued to look at the strategy in the context of Iraq. And no doubt about it, they made a mistake by highlighting that well before they had articulated the strategy, and then put the strategy, I agree with what Steve said, that it was even—the President's speech before the strategy, putting it in context, was a bad idea. But then even in the strategy it was maybe put in too bright a light.

But it did try to identify a fundamental problem, which is there are some of these emerging security challenges, particularly that nexus of terrorism and WMD, which we need to have some kind of ability to act against. And in concert with some of the parties that we see in the world today as willing to work with us to manage this growing world disorder and instability. And that goes to Ivo's point that if you look at the challenges of globalization and managing our security in the context of this growing world disorder, failed states and the development of these transnational problems that we can't control in the way the realists might like to see us deal with them, how do we cope with these and how do we begin to develop the capability to take a preventive action that will ensure that some of these problems are not unfolded on our territories and their full effects fully brought into play? So that we're sort of reacting after the fact.

And so I wonder, you know, do we really need to look at how do we—the administration has tried to caveat and back peddle a bit on preemption—that it's not—we heard even John Bolton last night say it's not the strategy, it's an option. But isn't it really an option that we need to have, particularly in dealing with this WMD-terrorism nexus? And shouldn't we be looking at some kind of dialogue with the stable democracies that share our interests and even some of the other great powers who may not be always with us, that is to say China and Russia, on dealing with some of these problems? And can we develop some norms that would put preemption, not that we can put preemption back in the box in the current global environment, but can we put it under some conditions and terms that at least the core group of stable democracies can agree on first? And then maybe we can get even a wider consensus on, within the international community?

BOSWORTH: Why don't we take two or three questions at once before I turn to the panel and let them respond? Over here, please.

VALERIE EPPS, SUFFOLK LAW SCHOOL

I wanted to talk about Mr. Daalder's essentially attack on the UN system. I mean, he asks a very good question. He basically says, what's the world like now and is a UN collective system the way that we can deal with it? And then he raises what I think is a straw man argument by basically saying the UN Charter is based fundamentally on the notion of sovereign equality of states, and he says we don't have sovereign equality of states, and therefore I think he says, throw out the UN system.

Now the problem with that argument is that, yes, he's right; the UN is fundamentally based on a notion of equality of states. But it is a legal ideal. Just as all legal systems seek to contain the powerful, to subject the powerful to a standard of conduct for everyone, in domestic law or international law. So the same thing is true when you set up an ideal in a charter. Of course the drafters of the UN Charter knew that states weren't in fact equal. But they wanted that as an ideal, and as General Trainor said, against the notion of states being able to invade each other and interfere in internal affairs, that was the ideal that was set up.

Actually—and I think Mr. Daalder's notion that the world has changed tremendously, in terms of globalization, in terms of the sort of threats that are out there, not only in terms of terrorism and so on, but as you point out, everything from locusts to Avian flu does require [of] us—I quite agree, in rethinking how we use power and what form the power shall use. But it doesn't in my view take us away from the notion of collective power.

And I think you may have made, in fact, a rather eloquent argument for rising like a phoenix on the ashes of unilateralism, if you want to call it that. Get collective security back as the phoenix, as the solution to the various problems that we face in this world. So I would simply say, why are you throwing out the whole of the system when there isn't anything there, except you sort of tell us, go around and talk to our friends and see if they'll come along with us a bit more. But I would say, why do you not work for some sort of reformations within the only sort of global system that we have?

MUSTAFA KIBAROGLU, FELLOW AT THE KENNEDY SCHOOL

My question is to Professor Walt. Actually you mentioned, speaking so much of preemption, but not doing anything to some of the states like North Korea, it runs the risk of eroding U.S. credibility, which I believe is true. And actually, my students keep asking me why the U.S. treats North Korea and Iran differently. My answer was quite simple, "North Korea did not pose any direct threat to Israel." In my opinion, I truly believe, honestly and sincerely believe that Iran is posing a kind of existential threat to Israel.

In that context I also promoted, always, Turkish-Israeli relations, which have become quite instrumental from a security perspective for the security of Israel. And

Turkey provided in a sense a virtual strategic depth by allowing the Israeli aircraft to fly over Turkish air space, so near by Syrian and Iraqi and Iranian borders. So I hear people, American people, questioning as to why the United States so much backs up Israel because some of them, it seems to me, believe 9/11 happened because of the U.S.'s unconditional support to Israel. I know it's a very sensitive issue, and I don't want to be so vitriolic about it, but you are one of the foremost minds of realist theory and alliance theory. So how would you sort of locate American-Israeli relations in the realistic paradigm? Because it suggests self-help, and alliances will to some extent explain [that]. Thank you.

BOSWORTH: Over here, please.

DUFF JOHNSON, INDEPENDENT SCHOLASTIC ACTOR

I guess I also have a question for Steve Walt. I was very struck by your critique, a very able critique, of the notion of preventative war. But I was less impressed by what you would have us replace it with, which was to say you actually didn't address that. And I think the critique—the world as we have it has these factors, which everybody in the room acknowledges clearly exist, these factors at some level or another clearly cry out for preventative action of one type or another, and that will from time to time take military forms. Or it would appear to need to take military forms.

So I'm particularly interested in, other than the fact that we have a preventative strategy in our toolkit, other than keeping that secret, and not telling everybody and putting it up in lights—I'd like to hear more from you about that preventative strategy that you would, I think, acknowledge needs to be there; what it might look like.

BOSWORTH: Steve Del Rosso.

STEVE DEL ROSSO, CARNEGIE CORPORATION IN NEW YORK

Since we're at an academic institution, I thought I'd try to employ a time honored academic approach, and that is to pose a counter-factual. Counter-factual is to imagine for a moment that things had gone better in Iraq. That some of the things that John Kerry and others have suggested were employed and actually worked, and that we were winning the peace. Question is, how would the analysis of the strategic environment, or indeed the entire conference that we're attending, how would that discussion have changed?

And if it would have changed, the question then is, how can one draw strategic implications from something that may in fact have been due to erroneous tactical decision making?

BOSWORTH: What I'm going to do is call on the three people who are standing, and then turn back to the panel. And if we have any time at the end, then I'll recognize additional questioners. Let me take this.

UNKNOWN

Hi, my question is actually just for Lieutenant General Trainor. I was listening to your justification of laying out the framework for legitimate authority, and it just struck me that it seemed like in describing that you were assuming a certain degree of permanence to the situation of the world as it is. You compared the situation now also to the pax romana, and in that comparison to pax romana, I mean, eventually Rome fell. And I'm just wondering how you compensate for the situation of maybe not even setting a precedent as Stephen Walt was talking about, but just exhaustion of trying to couple legitimate authority on top of legitimate authority?

TIM CRAWFORD, BOSTON COLLEGE

Just two questions: Based on this discussion and the one before, it seems like a really important issue that international legal scholars and students of international relations haven't figured out yet is this negative precedent problem that Steve Walt and Jack Goldsmith talked about. Do we really think that the negative precedent is actually going to lead states to fight wars that they wouldn't otherwise fight? Or do we think it's going to change the way they justify the wars that they were already going to fight anyways?

I think that's one question. So is there really a causal effect here? And I was surprised to hear the legal scholar put forward the most vigorous realist argument, and to have the realist scholar put forward something that seemed somewhat more of a legal, normative kind of thing. So anyways, causal effects there.

And then for Ivo, you know, ten years ago or five years ago, we used to think that democracies didn't launch preventive wars. We used to think that democracies were much more likely to identify their interests similarly, and we used to think that democracies were transparent to each other and they could read each other correctly. But it seems like the last few years we've had a lot of miscommunication between democracies and disagreements about threats and interests.

You proposed this sort of let's get the democracies together, and it sounds like the right way to go. I'm wondering, how would any administration approach this "let's argue better to bring our democratic allies at least on board"?

GUILLERMO PINCZUK, FLETCHER GRADUATE,
INSTITUTE FOR FOREIGN POLICY ANALYSIS

I was wondering if the panelists thought that the National Security Strategy was too state-centric. In the sense that it conceives of groups like al-Qaeda as being able to function only through official or unofficial state support. Whereas what we see is that most of its support, it seems, comes from sub-state elements in supposed allies in Pakistan and Saudi Arabia and elsewhere in the Muslim world. So I was wondering if they thought the National Security Strategy basically had the wrong paradigm.

BOSWORTH: Thank you. Let me turn back to the panel, and I will take you in the same order I took you originally. I would suggest that each of you try to limit your responses to these questions and comments. Some of them I didn't discern a rising inflection at the end of [laughter]. So you are free to either treat them as a question or treat them as they probably are more generically, a comment.

DAALDER: A lot of comments, a lot on the table. But let me limit myself at least to the ones that were directed at me, though I may kick in one other comment as well as we go along.

I think—to take the last question first because it also actually relates to the first question—that the administration, and in that sense Steve Walt too, though putting Walt and the administration in the same category may be too much for anybody to take . . .

WALT: I'm a real realist.

DAALDER: . . . Both fundamentally misunderstand what is going on in the world, which is that nation-states and their autonomy and independence is being affected by the forces of globalization in ways that has never happened before; that what happens very far away from home can kill you, in a very real and direct way, without armies, without nationalism—that's the essence of it. If you read the National Security Strategy, there is one word missing. It's the word globalization. It does not appear in any of the 40-some pages.

Now it may be that the Clinton Administration spent a little bit too much time on that one word, but somewhere in between there is the right balance. Which is to say, in an era in which transnational factors can kill you—remember that's what September 11 was about: September 11 was about 19 angry young men being mobilized by a transnational ideology, being trained in Afghanistan, hatching their plots in Hamburg and Madrid, figuring out how to fly in Florida and Arizona, killing Americans here at home. That's what 9/11 was about: the world came to America.



And we need to figure out how our way of thinking in terms of foreign policy and in terms of international relations needs to adapt to that reality. As the last questioner pointed out, to conceive of terrorism only in a state-centric framework is just to have missed the point. I mean, that's how we get from 9/11 to Baghdad. Because the only way terrorists can kill us is if somehow they are supported by states. If you live in that world, you're just living in the wrong place, because terrorists can kill us without the support of states. That's the world we live in. And under those circumstances, consisting and insisting on 1) a foreign policy and 2) a legal framework that is state-centric, I think is going to miss the point. That's point number one.

That gets to the question of whether we should recognize that the UN system isn't ideal and that we should try to work within it. All for it. Let's work within it. I'm particularly glad that the United States finally decided to go to the UN Security Council to do something about Sudan. A place of 2.5 million people in which each and every week a 9/11 takes place. Three thousand people a week are being killed in Darfur. And we take that, as a country, after having decided that this is genocide, to the UN Security Council, and we get zippo. Worse, we get two presidential candidates standing up last night saying however bad it is, we ain't going to do anything about it. But that's one for the American people to decide on.

I just don't think that the UN system is always going to provide the answer

that we want. I was a proponent of intervening in Kosovo. I'm glad we did, that we didn't wait for the UN Security Council to finally figure out how to get around the Russian veto. And under those circumstances, there has to be something in addition to the UN Security Council, in addition to that framework.

I would argue that people who are more like us may be more likely to agree with us, to intervene. Now I think Tim Crawford pointed out that in the last two years, that we haven't had a very good record on that. But the lesson I would learn is not that democracies can't agree; the lesson I would take away from that is that this particular president and this particular administration should pay more attention to people when they disagree. It may have been that in this particular case the disagreement was right. It may have been that having created an international coalition, using the UN to get inspectors back in, working that process a little longer might've been more successful. That in fact if you had worked the system, either the UN system or a system of cooperation with your more democratic allies, you would've come to a better outcome.

Which gets finally, last point, to Steve Del Rosso's interesting counter-factual. What if we had been winning in Iraq and how would that make a difference? I would submit that if we had found weapons of mass destruction, then the Bush Administration's argument about ex post facto legitimization would've worked. I have very little doubt that if we found large stockpiles of chemical and biological weapons, or a nuclear weapons program far more advanced than anybody thought, that many countries who had opposed the United States intervention would've said, you know, hate to say so, but I think this might've been a good idea.

In the same way that someone at the previous panel mentioned, Osirak all of a sudden in 1991 turned out to have been not such a bad idea, even though the UN Security Council, without a U.S. veto, passed a condemnation of that act in 1981. So I think in that sense it would've worked.

What if we hadn't found weapons of mass destruction but somehow had managed the post war situation differently? I would argue, one, there's a question of whether it was possible. And I might agree with Steve, it may have been completely impossible to handle the post war situation better or more effectively. Let's put it that way. We could certainly have handled it better.

But if I grant for the moment the counter-factual, that we could've had a better outcome, I would argue the only way we could've had a better outcome is if we had a fundamentally different strategy; one that embraced international cooperation and international coalitions; that from day one had said that the way you deal with this problem is not through an American occupation, but through a UN Assistance Mission or an international assistance mission. Take the Bosnia model, take the East Timor model, take the Kosovo model, whatever model you want to have. And please provide sufficient security forces when you go to war.

Kind of an interesting and important concept: that it's maybe not enough to determine how many forces you need in order to defeat a dictator; you may also want to figure out how much you need for the day after. And it may be—paging Mr. Wolfowitz—that sometimes you need more troops after war than to get rid of a dictator. So I would argue, if the counter-factual had worked, it was for real reasons. Either there were weapons of mass destruction, in which case the situation I think would've been different—and by the way we wouldn't be in Iraq anymore—a different issue that we can debate later—I think we would've withdrawn by now because the goal would've been achieved. But secondly, if we had done the post-war better, we would've done it because we had international consensus. And that would've changed the way in which the system would've worked.

WALT: I think I have four things to swing at here, and I'll try to do it quickly. First, I just remind everybody, there's a difference between taking preventive action and fighting a preventive war. Something like the Proliferation Security Initiative, for example, where we go out and try to find people who are collecting contraband that might be used in a WMD program, along with a bunch of other countries, and seize it on the high seas or whatever—that's preventive action. But it's not preventive war, and we want to distinguish between those two. I'm in favor of preventive action.

With regard to Steve's question, I'd be perfectly happy to have preventive war sort of deep down in the U.S. toolbox, underneath a lot of other instruments and hard to find even when we go looking for it, but it's in there somewhere. However, in most cases if you look historically at the clear-cut cases of preventive wars, they didn't turn out that well for the people who launch them. Preventive war does not have a particularly good track record, which is why I want to keep it buried in the toolbox.

To take a broad perspective, I would be a lot happier today if I saw a combination of things. One, we still need to rely on deterrence. If some rogue state gets weapons of mass destruction, they have to understand what the rules are and what's going to happen if they use them, if they try to blackmail others, or if we even *suspect* they've given them to terrorists. It's worth noting, by the way, that there have been chemical weapons now in the hands of very dangerous countries for a long time, and there's yet to be a case where a rogue regime has given chemical weapons away say to Hezbollah, even though they clearly could have done so. And you might ask yourself this question: if it could've happened before, why hasn't it?

I'd also be of course happy if I saw a very sustained and energetic and aggressive action against al-Qaeda. I'd be really happy if I saw energetic American action to try and end the Israeli-Palestinian conflict, which according to the *9/11 Commission Report* is a major source of what's fueling groups like al-Qaeda. And



it seems to me an intelligence strategy for dealing with al-Qaeda both would go after the ones that are already there, *and* try to prevent more of them from being recruited.

I'd also like to see a much more energetic and ambitious program to control loose nuclear materials around the world. That would suggest, again, that we were really serious about this

problem, as opposed to coming up with sort of simple doctrines. Finally, to note something that no one ever talks about, we ought to at least ask ourselves the question whether some of the problems that we think preventive war might be the solution for are also engendered by the American penchant for sort of going around the world and getting in everybody's face and telling them what to do.

Again, let's not forget—and this is not an apology for al-Qaeda—but let's not forget that there were sort of two big motivations for them. One was the American presence in Saudi Arabia and our general policy in the Persian Gulf, which was after 1990 a sharp departure from our previous policies there. And second, they are also inspired by what they regard as our one-sided support for Israel. These are two aspects of American foreign policy that, again, if you were trying to deal with this problem—weapons of mass destruction in the hands of terrorists—you'd see a whole range of things being done energetically, but preventive war would be way down there in the toolbox.

Second, the “third rail” question I've been asked about what was the role of our relationship with Israel in getting us into Iraq. We could talk about this for a long time and probably not agree, but let me make several points. First, support for the war in Iraq was based on a coalition of different groups, not just pro-Israel forces. Second, it is quite clear that the most enthusiastic pro-Israeli political groups in the United States were in favor of the war and were arguing for it. The Israeli government was also strongly in favor of war. It is also clear that if you look at public opinion among Jewish Americans, Jewish Americans as a population were *less* supportive of the war than the U.S. population as a whole. So in my view, it is a mistake to argue that this was a war produced by Jewish American influence in the large.

Instead, it was a war that was encouraged, though not determined, by the organized pro-Israeli lobbying groups within the United States. This includes people like the Christian Zionists and others. And, for those of you who are IR theory mavens out there, I don't think you can explain the U.S. relationship with Israel and the effects that we have on each other's foreign policy by realism. Realism doesn't do a particularly good job of that; you've got to look elsewhere.

The counter-factual: Steve Del Rosso posed a great counter-factual. What would have happened if things had gone better in Iraq? I agree with a lot of what Ivo said. Of course, if we'd found weapons of mass destruction that would've helped legitimate it in the eyes of others, although I thought before the war and continue to think today that it was not all that horrible a thought to imagine Saddam Hussein with nuclear weapons. I think we could've deterred him and contained him for a long time, just as we contained tyrants like Stalin and Mao Zedong.

What would have happened if it had all gone well? Well we know what Richard Pearle said. Right after the war, when it looked like everything was going well: "Now we turn to Syria and Iran and say 'you're next.'" So the same victory disease that we had after the [19]90s, when we fought a series of wars and never got our hair badly mussed, would've become even worse.

In the end, however, I think we had roughly one chance in ten of making it work out. We've seen this attempt at nation-building in lots of different contexts. As many people said before the war, Iraq is not a very promising environment to try and do "nation-building." Particularly after the history they've had over the last 30 or 40 years. So, although the incompetence of the occupation was truly breathtaking, even more serious and competent people would've had a very hard time making this one work.

And lastly, the question about precedent at the end, where Jack Goldsmith and I are in sort of unusual positions. It's not like someone is going to stop doing what they're doing or start doing something else just because a precedent was set elsewhere. But it does lower the threshold for what is regarded as legitimate. If a certain set of activities, say preventive war, becomes a common practice that the big countries engage in on a frequent enough basis to be noticed and remembered, and if they've come up with fancy legal doctrines that justify it, then this development is going to make others think they can do the same thing without being censured. It will be hard to label true aggressor states as aggressors and hard to rally international support against them if their behavior is indistinguishable from the behavior of everybody else. So, yes, I'm a realist, but I do think these norms matter, mostly as a way of identifying who the bad guys are and who they aren't. And I don't think we should be in the business of acting just like the bad guys do.

BOSWORTH: General?

TRAINOR: Thank you. To answer the question that was directed at me concerning the just war tradition and the legitimacy of the decision maker: The tradition makes no distinction; it depends upon who is running, whether it's Caligula or whether it's Woodrow Wilson makes no difference about the person's morality or politics. So it's whoever is the guy who's in a position to make a decision—that's what is taken into account in the legitimate leadership criteria.

Now, getting back to highlighting the preemptive aspects in the National Security Strategy: I think it was deliberately not put in a toolbox. It was put out front. I mean everybody knew—not everybody knew, that's why of course such a fuss. But within the community, it was known that the idea of a preemption was always there for a sovereign nation. It was put there for a purpose. It was put there to send the message to the rest of the world that the United States—and it was articulated this way by the President—that we would take whatever action is necessary. You're either with us or against us. So I think it was very, very deliberate.

And was that a good thing or a bad thing? Well, I don't think the tape on that has run out yet. I think we have to find out. And I would call to your mind, if Bush is re-elected for four more years, the international community is going to have to deal with him on his terms because we're still the big superpower. And that's one of the reasons I think a lot of them want to make sure he is defeated. But I think that remains to be seen as to whether that was a good move to send this signal.

I think, you know, nature has a way of solving a lot of problems, and I think nature solved this problem of this preemption that we made in Iraq because of the muddle that we're in right now. So I don't think—norwithstanding Richard Pearle and others—I don't think you're going to see us going into Syria or into Iran, or any other place very soon because we've been burned so badly that I think this has given us a sense of—it has destroyed the sense of hubris that I think perhaps we've been experiencing.

But that does not mean that we are not going to be taking preemptive action. I would say that the likelihood of preemptive action—particularly if the thing turns to a complete mess and we lose in a broad sense in Iraq—the need for preemptive action against terrorism is going to be greater than it is right now. But you're not going to see it on the scale that we talked about it in Iraq. You're going to see it with the discrete special operation type units and other types of techniques that will come into place, where we will violate other nations' sovereignty if necessary in the interest of our own safety.

So you will see preemptive action in that sort of fashion, and I think interestingly enough the fact that there are other nations in the world, notwithstanding the political setup in the United Nations, that [are] suffering from the same

dangers. Terrorism is a threat to the Chinese; terrorism is a threat to the Russians; terrorism is a threat to the French. All you have to think about is the Baader-Meinhof gang in Germany to recognize that terrorism is a tactic by people who want to destroy what you hold sacred, and that crosses national boundaries.

So I would think that you are going to see more cooperation—if everybody plays their cards correctly—that there's going to be more cooperation between the states that are threatened by the terrorist tactic in the future than we have in the past because it's in everybody's interest. And I think the thing that we can take a certain amount of encouragement from is that those who are using these terrorist tactics, particularly in the Islamic world, are not offering anything as a viable positive option. You can criticize the IRA in Ireland for their terrorist tactics but they had a goal, which was the independence of Ireland. But have to say to yourself, what is the goal, other than to destroy the infidel, of some of these radical groups of terrorists that we see running around the world today?

So I think we can take a certain amount of encouragement that in this new epoch—and I think they can describe it as nothing less than that—that there is going to be a sense within the international community, on all of the continents, that it's in the interest, the mutual interest of all, to cooperate against these nihilistic groups who are using terrorism as a tactic against the common good.

BOSWORTH: General, thank you very much. I will restrain my own observations at this point in the interest of getting us to lunch. I will only say that it does strike me that much of the discussion today, and in the past, has been on the question of how to constrain the use of power by the United States. And I would only observe that in the end, I think the only real constraint on our use of power is our own self-restraint. And for better or for worse, I think our self-restraint has risen considerably over the last year. On balance that may be a good thing, but on balance we may find, as the General indicated, that it's not such a good thing. And that it causes us to ignore threats that we would otherwise legitimately, at least in terms of our own self-interest, have reacted to.

Anyway, I think this has been an extremely interesting discussion. I thank and congratulate all three members of the panel. So please join me in thanking our panelists for an extremely good presentation.

APPLAUSE

END OF PANEL

