
Bellum Americanum

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As the Cold War came to an end, many skeptics wondered whether the first President Bush's "new world order" was simply a code word for Pax Americana. The first few years of the 1990s did indeed witness a plethora of "peacekeeping" operations under the auspices of the United Nations, often led by Americans. In 1992, UN Secretary-General Boutros Boutros-Ghali introduced an *Agenda for Peace* that reflected this newfound commitment to end at least some wars and assist in rebuilding war-torn societies.

By the end of the 1990s, however, Pax Americana seemed to have become *bellum americanum*, as the desire to keep the peace took second place to a desire to accomplish "good" through war. Neutral intervention under the auspices of the UN gave way to support for one side in a conflict, from Bosnia and Herzegovina to Kosovo to Sierra Leone. NATO bombed Kosovo and Yugoslavia illegally; the United States and a few allies overthrew the Taliban regime in Afghanistan in "self-defense," and the second Bush administration spent much of 2002 threatening Iraq and attempting to bully the UN into supporting an American overthrow of Saddam Hussein. Peace has given way to justice, as defined by the White House. Sovereignty continues to be asserted to protect U.S. soldiers from the International Criminal Court, but it no longer shields other states from American attack.

The new military crusaders have many motivations, some less noble than others. For example, there is little doubt that the coincidence of NATO's 50th anniversary in 1999 influenced the timing of the war in Kosovo—if NATO could not handle a minor war in Europe, of what use could it be in the post-Cold War era? And it is difficult to believe that oil prices and midterm elections did not play at least some role in the sudden Bush discovery of a threat from Iraq in 2002.

But more disturbing than the self-serving motives of some politicians are the altruistic, even idealistic, motives put forth by both the Clinton and Bush II administrations to justify going to war. War is now portrayed not as a means of imperial

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aggrandizement or bending others to American will, but as a necessary liberating force. It is a reluctant exercise in *noblesse oblige* that the world's only superpower, seconded by Tony Blair, is duty-bound to undertake.¹ Even some human rights activists hailed bombing Yugoslavia and Afghanistan as a welcome reversal of American inaction (and even obstruction) during the 1994 genocide in Rwanda.

Thus, while much of this essay will be concerned with the inexplicable rush to war with Iraq, it is important to remember that the war we are likely to see against Iraq in early 2003 is, in some respects, an outgrowth from the militaristic approach adopted by Bill Clinton, Madeleine Albright, and Richard Holbrooke in Yugoslavia in the late 1990s.² As these words are written in November 2002, war with Iraq is not certain; the outlines of its justification, however, are clear.

YUGOSLAVIA: *JUS AD BELLUM*, AMERICAN-STYLE

From whatever perspective one chooses, the dissolution of the Socialist Federal Republic of Yugoslavia (SFRY) was a disaster. The most widely accepted figures of destruction include approximately 250,000 dead, perhaps 3 million displaced (including those in Kosovo in 1999), and billions of dollars in property damage. Since 1995, additional billions have been spent on reconstruction, and tens of thousands of troops remain in the territory of the former SFRY. Hundreds of thousands of displaced persons, many of them Serbs, remain unable to return to their homes in Bosnia, Croatia, and Kosovo. The NATO attacks on Serbian forces in Bosnia and the resulting 1995 Dayton Accords were supposed, at the

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very least, to bring stability to the Balkans. However, within six years, war had broken out in both Kosovo and Macedonia, and it appears likely that Montenegro might also opt for independence.

It is impossible to summarize here the negotiations, quasi-interventions, and interventions that led first to the Dayton Accords and later to the imposition of an international protectorate on Kosovo.³

Equally impossible is a review of other major conflicts of the 1990s in which intervention was either nonexistent or ineffective, such as Somalia, Rwanda, the Democratic Republic of Congo, Liberia, Sierra Leone, and East Timor.⁴ However, these failures—accompanied as they were by satellite-fed images of mutilated bodies and starving children—must be borne in mind if we hope to understand how “doing something” has become a Western, and particularly an American, imperative.

The NATO bombing in Kosovo precipitated a Serb onslaught that led to the expulsion of 800,000 Albanians and the deaths of at least 5,000 people, including 500 civilians killed by NATO bombs. While reversing the expulsions and protecting the Albanian population (from 15,000 feet in the air) soon became the primary object of the campaign, this was not initially the case. In the first press conference after the bombing started, the NATO Secretary-General stated, *inter alia*:

All efforts to achieve a negotiated, political solution to the Kosovo crisis having failed, no alternative is open but to take military action. We are taking action following the Federal Republic of Yugoslavia Government's refusal of the International Community's demands:

- Acceptance of the interim political settlement which has been negotiated at Rambouillet;
- Full observance of limits on the Serb Army and Special Police Forces agreed on 25 October [1998];
- Ending of excessive and disproportionate use of force in Kosovo.

This military action is intended to support the political aims of the international community....

We know the risks of action but we have all agreed that inaction brings even greater dangers.⁵

One week later, the priorities had shifted, as the NATO Secretary-General further declared:

- [F]irst and foremost, we must stop the killing in Kosovo and the brutal destruction of human lives and properties;
- [S]econdly, we must put an end to the appalling humanitarian situation that is now unfolding in Kosovo and create the conditions for the refugees to be able to return;
- [T]hirdly, we must create the conditions for a political solution to the crisis in Kosovo based on the Rambouillet agreement....

Milosevic and his government are the antithesis of all we value. So we cannot tolerate the behavior of a more barbarous age in a Europe which is striving towards a more united and more enlightened future.⁶

NATO's interventionist action was never submitted to the UN Security Council for authorization despite the clear requirement set out in Article 53 of the UN Charter, which stipulates that any regional enforcement action must have such authorization. When the campaign ended some three months later, however, the Security Council did implicitly endorse the *fait accompli* by creating an international security force to govern Kosovo until its final status could be determined.⁷

The illegality of the war was widely accepted, yet it bothered few who believed that the ends justified the means. For example, the Independent

International Commission on Kosovo, a group of international experts generally sympathetic to the intervention, was forced to conclude that the NATO campaign was “illegal, yet legitimate.”⁸ There is no doubt that the vast majority of Albanians in Kosovo supported the bombing, even though it was accompanied by expulsions and death.⁹ Serbs, on the other hand, fled in great numbers after the campaign concluded, making a mockery of the goal of creating a democratic, multi-ethnic entity within the territory.

“REGIME CHANGE” IN IRAQ

George W. Bush took office opposed to “nation-building” and sought to distance himself from Clinton’s direct involvement in complex foreign issues, such as the Middle East. Whether this position would have continued is open to question, but the attacks of September 11, 2001, immediately overcame any isolationist tendencies that may have previously characterized the new administration.

The President’s State of the Union speech in January 2002 identified Iran, Iraq, and North Korea as constituting an “axis of evil” that posed a “grave and growing danger.” Reflecting earlier statements during the Kosovo campaign by NATO and the Clinton administration, Bush stated that “the price of indifference would be catastrophic.... I will not wait on events while dangers gather.” And, while denying that the United States had any intention of imposing its culture on the rest of the world, the President proclaimed, in messianic terms:

We want to be a Nation that serves goals larger than self.

We have been offered a unique opportunity, and we must not let this moment pass....

[W]e have a great opportunity during this time of war [on terrorism] to lead the world toward the values that will bring lasting peace....

America will lead by defending liberty and justice because they are right and true and unchanging for all people everywhere....

In a single instant [on September 11, 2001], we realized that this will be a decisive decade in the history of liberty—that we have been called to a unique role in human events. Rarely has the world faced a choice more clear or consequential.¹⁰

Several months later, after a constant drumbeat calling for “regime change” in Iraq, the President appeared to soften both the bellicose and unilateralist tone of his earlier statements:

My nation will work with the UN Security Council to meet our common challenge. If Iraq’s regime defies us again, the world must move deliberately, decisively to hold Iraq to account. We will work with the UN Security Council for the necessary resolutions....

We must choose between a world of fear and a world of progress. We cannot stand by and do nothing while dangers gather. We must stand up for our security and for the permanent rights and the hopes of mankind.

By heritage and by choice, the United States of America will make that stand. And, delegates to the United Nations, you have the power to make that stand, as well.¹¹

The truth, however, is that the United States has at all times maintained that it and, if necessary, it alone has the right, indeed the obligation, to decide whether or not to declare war on Iraq.

The United States did follow through on its promise to work with the Security Council, and several weeks of negotiations resulted in the adoption of Resolution 1441 on November 8, 2002. Throughout the process, however, “administration officials said their bottom line was that they would not allow the Security Council to limit Washington’s scope of action,”¹² and that position was maintained even after the resolution’s adoption. According to an unnamed White House official, “We already have the authorization to use force if the president decides to do so. There is nothing in the resolution that undercuts that.”¹³

French, Russian, and other diplomats insisted that the carefully worded language in the resolution required that the Council be reconvened in the event that inspectors determined that Iraq was not complying with its provisions. Yet, the U.S. commitment to force appeared to be unshakable. At the same time that he affirmed that the Security Council resolution contained no “hidden trigger” that would automatically justify the use of force, U.S.

Ambassador to the UN John Negroponte made it clear that force was the default option: “If the Security Council fails to act decisively in the event of a further Iraqi violation, this resolution does not constrain any member state from acting to defend itself against the threat posed by Iraq, or to enforce relevant UN resolutions and protect world peace and security.”¹⁴ President Bush reiterated that “the United States has agreed to dis-

uss any material breach with the Security Council, but without jeopardizing our freedom of action to defend our country. If Iraq fails to fully comply, the United States and other nations will disarm Saddam Hussein.”¹⁵ Resolution 1441 was a fig tree, with a leaf for everyone.

The month before adoption of Resolution 1441, the U.S. Congress voted to authorize the President to use armed force “as he determines to be necessary and appropriate” in order to “defend the national security of the United States”

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and “enforce all relevant United Nations Security Council resolutions regarding Iraq,” without requiring the sanction of the Security Council.¹⁶

The extent of U.S. unilateralism and militarism also is reflected in the administration’s National Security Strategy, which was developed in the midst of the debate over Iraq and submitted to Congress in September 2002.¹⁷ The Strategy begins by setting out the context in which U.S. security should be understood:

The war against terrorists of global reach is a global enterprise of uncertain duration.... America will hold to account nations that are compromised by terror, including those who harbor terrorists—because the allies of terror are the enemies of civilization.... In the new world we have entered, the only path to peace and security is the path of action.... Today, humanity holds in its hands the opportunity to further freedom’s triumph over all these foes [war, terror, tyrants, poverty, and disease]. The United States welcomes our responsibility to lead in this great mission.¹⁸

American strategy, the aim of which “is to help make the world not just safer but better,”¹⁹ is based on what the United States stands for: “the United States must defend liberty and justice because these principles are right and true for all people everywhere.”²⁰ So-called “rogue states” not only “brutalize their own people” and “display no regard for international law,” but they also “reject basic human values and hate the United States and everything for which it stands.”²¹ The use of force is now justified in broader circumstances, because the United States “must adapt the concept of imminent threat to the capabilities and objectives of today’s adversaries.... [I]n an age where the enemies of civilization openly and actively seek the world’s most destructive technologies, the United States cannot remain idle while dangers gather.”²²

While diplomatic and economic avenues also should be pursued, “it is time to reaffirm the essential role of American military strength. We must build and maintain our defenses beyond challenge.... Our forces will be strong enough to dissuade potential adversaries from pursuing a military buildup in hopes of surpassing, or equaling, the power of the United States.”²³

WHY IRAQ, WHY NOW?

It is certainly likely that the regime in Iraq is attempting to develop chemical and biological weapons, and there can be no doubt that Iraq obstructed earlier UNSCOM inspectors and lied about the existence of production facilities and weapons. However, no evidence has been offered regarding any potential nuclear capability, although constant reference to this possibility is a useful scare tactic.

Allegations that Iraq is a direct threat to the United States are ludicrous, and the doctrine of “preventive” self-defense is rejected by everyone but State

Department lawyers whose job it is to defend the positions of their client. The United States joined the rest of the Security Council in condemning Israel for adopting precisely such a position when it attacked an Iraqi nuclear reactor in 1981, calling the attack “a clear violation of the Charter of the United Nations and the norms of international conduct.”²⁴

Whatever arguments the U.S. may make about the need to deter terrorism, launching a “preventive” war is no more legal and no less dangerous than it was 20 years ago.²⁵

The coincidence of the buildup against Iraq and the U.S. midterm elections in November 2002 has been noted by many critics, and the President clearly succeeded in distracting the American public from domestic economic problems with the specter of foreign threats. Saber-rattling has a long tradition in the politics of the United

States as well as in many other countries, and the rhetoric needs to be at a high level if it is to be effective. However, it is doubtful that re-instituting even relatively effective UN weapons inspections will satisfy the clamor for “regime change” initially demanded by the Bush administration.

Without discounting the importance of oil prices and elections, I would argue that the militaristic initiative against Iraq is a natural, and perhaps inevitable, outgrowth of the “war” against terrorism launched after 9/11. Wartime offers an excuse to impose draconian measures—detention without trial, invasion of foreign countries, assassination of “unlawful combatants” wherever they may be found. For administration members such as Donald Rumsfeld, John Ashcroft, Condoleezza Rice, and Paul Wolfowitz, declaring and waging war is preferable to the much more difficult task of fighting international crime—which is how terrorism was seen until 9/11.²⁶

Military and political analysts have amply discussed the likely consequences of an invasion of Iraq. A decade-old comment remains valid today:

If you're going to go in and try to topple Saddam Hussein, you have to go to Baghdad. Once you've got Baghdad, it's not clear what you do with it. It's not clear what kind of government you would put in place of the one that's currently there now. Is it going to be a Shi'a regime, a Sunni regime, or a Kurdish regime? Or one that tilts toward the Ba'athists, or one that tilts toward the Islamic fundamentalists? How much credibility is that government going to have if it's set up by the United States military when it's there? How long does the United States military have to stay to protect the people that sign up for that government, and what happens to it once we leave?²⁷

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Other likely consequences include the possibility of widespread civilian deaths from the deliberate actions of Iraqi forces and “collateral damage” by U.S. forces; hundreds of thousands of refugees; widespread physical destruction in a country already devoid of infrastructure; an Iraqi attack on Israel—with or without the chemical and biological weapons Iraq is supposed to possess—followed by Israeli retaliation; and increased long-term resentment in the world generally, and the Arab world particularly, at U.S. high-handedness. If Saddam Hussein is overthrown, the United States will need to spend billions of dollars in reconstruction aid and maintain a continuing security presence in Iraq. As terrorists and religious zealots seek revenge for the invasion, the result will be lesser, not greater, security for Americans both abroad and within the United States. To be fair, it is certain that the population of Iraq would welcome a “regime change.” The only question is, at what cost?

“DOING SOMETHING”

We have come a long way from earlier U.S. interventions in Chile, the Dominican Republic, Grenada, Guatemala, Iran, and Nicaragua. But *bellum americanum* is potentially more dangerous than mere anti-communism, since the crusade to install democratic regimes and protect human rights (in enemy states, not in our allies) can be unending. Even if war in Iraq were to receive the approval of the UN Security Council and the applause of many in the international community, the ham-fisted way in which it has been pursued by the current administration will ensure that it is perceived as “America’s war,” with all of the

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uncertain consequences that entails. Just as the war against terrorism will never be declared over, so, too, will the war to protect the downtrodden and oppressed linger indefinitely.

These warnings are not a call for pacifism or inaction, although that is the stark choice disingenuously offered by the promoters of war. Preventing widespread death within a country, where that is possible, merits military intervention and, if necessary, killing those responsible for the dying. Human rights violations should not be ignored, but they should be attacked in the manner best calculated to redress them, even if this means offering carrots rather than sticks.

UN resolutions should be enforced, but the means of such enforcement are not subject to the unilateral determination of the United States or any other country. If they were, then one should also expect unilateral enforcement of res-

olutions on Kashmir, Western Sahara, Palestine, Myanmar, central Africa, and countless other contentious parts of the world.

The United States must act to defend itself when warranted, but any such response should be calculated to achieve the long-term goal of greater security for Americans, not merely the short-term goal of doing something. The parents, spouses, and children of those who will die in the war deserve a better explanation than the mere assertion of a vague threat against U.S. security interests.

Difficult, complex problems usually require difficult, complex solutions. This fact, however, does not lend itself well to sound bites or teleprompters. The case for war in Iraq is hollow, and its pursuit will be counterproductive. "Doing something" is not a foreign policy, and making war to create peace is not much of a substitute. ■

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NOTES

- 1 A recent *New York Times Magazine* story on Deputy Secretary of Defense Paul D. Wolfowitz, seen by many as the architect of the Bush administration's policy on Iraq, clearly reflects the new messianic fervor. The author, Bill Keller, identifies "three important things" that Wolfowitz brings to the formulation of U.S. policy. The first is a long-term perspective. "The second thing he brings is an activist bent. It is forged partly of humanitarian impulse, a horror of standing by and watching bad things happen... The third striking thing about Wolfowitz is an optimism about America's ability to build a better world. He has an almost missionary sense of America's role." See Bill Keller, "The Sunshine Warrior," *The New York Times Magazine*, September 22, 2002, 48, 50.
- 2 In an October 2002 interview on National Public Radio, Secretary of State Colin Powell specifically mentioned the NATO bombing of Kosovo as precedent for the proposition that the United States does not require the authorization of the UN Security Council to attack Iraq.
- 3 Among the more notable works, some of which are self-serving justifications of actions taken by their authors, see Steven L. Burg and Paul S. Shoup, *The War in Bosnia-Herzegovina* (M.E. Sharpe, 1999); Christopher Cviic, *Remaking the Balkans* (Royal Institute of International Affairs, 1995); Richard Holbrooke, *To End a War*, rev. ed., (Modern Library, 1999); Independent International Commission on Kosovo, "Kosovo Report" (Oxford, 2000); International Commission on the Balkans, "Unfinished Peace" (Aspen Institute / Carnegie Endowment, 1996); Tim Judah, *Kosovo* (Yale, 2000); Julie A. Mertus, *Kosovo* (California, 1999); David Owen, *Balkan Odyssey* (Harcourt Brace, 1995); Peter Radan, *The Break-up of Yugoslavia and International Law* (Routledge, 2000); Sabrina P. Ramet, *Balkan Babel*, 4th ed., (Westview, 2002); Sabrina P. Ramet, *Nationalism and Federalism in Yugoslavia 1962-1991*, 2th ed., (Indiana University Press, 1992); Steve Terrett, *The Dissolution of Yugoslavia and the Badinter Arbitration Commission* (Ashgate/Dartmouth, 2000); Susan L. Woodward, *Balkan Tragedy* (Brookings, 1995); Warren Zimmermann, *Origins of a Catastrophe*, rev. ed., (Times Books, 1999). A useful collection of documents may be found in Daniel Bethlehem and Marc Weller, eds., "The 'Yugoslav' Crisis in International Law," (Cambridge University Press, 1997), Cambridge International Documents Series, vol. 5.
- 4 This is not to say that international involvement can have no positive impact, as evidenced by more successful (and less forceful) involvements in, e.g., Namibia, Mozambique, and Cambodia.
- 5 NATO Press Release 1999(040), March 23, 1999.
- 6 NATO Press Release 1999(045), April 1, 1999.
- 7 UN Security Council Resolution 1244.
- 8 Independent International Commission on Kosovo, "Kosovo Report" (Oxford, 2000), 186.

- 9 It was recently reported that a street in Pristina, the capital of Kosovo, was to be named after Bill Clinton. See *Deutsche Presse-Agentur*, October 17, 2002 (accessed November 30, 2002); available from Lexis-Nexis Universe.
- 10 George W. Bush, *The State of the Union Address*, January 29, 2002, <<http://www.whitehouse.gov/news/releases/2002/01/20020129-11.html>> (accessed November 24, 2002).
- 11 George W. Bush, Remarks at the United Nations General Assembly, September 12, 2002, <<http://www.whitehouse.gov/news/releases/2002/09/20020912-1.html>> (accessed November 24, 2002).
- 12 Julia Preston, "Shift Toward the U.S. Stand on Iraq is Noted in Council," *The New York Times*, November 1, 2002, A14.
- 13 "UN Council Backs Iraq Resolution Unanimously," *Boston Globe*, November 9, 2002, A12.
- 14 UN Wire, November 8, 2002.
- 15 "Transcript of Bush's Remarks on the Security Council's Iraq Resolution," *The New York Times*, November 9, 2002, A10.
- 16 "Congressional Joint Resolution to Authorize the Use of Force Against Iraq," *Washington Post*, October 11, 2002, A12.
- 17 The National Security Strategy, a 31-page paper dated September 17, 2002, is available at <<http://www.whitehouse.gov/nsc/nss.html>>.
- 18 *Ibid.*, iv-vi.
- 19 *Ibid.*, 1.
- 20 *Ibid.*, 3.
- 21 *Ibid.*, 13-14.
- 22 *Ibid.*, 15.
- 23 *Ibid.*, 29-30.
- 24 UN Security Council Resolution 487 (1981), para. 1.
- 25 As implied in the National Security Strategy document, the United States rejects this prohibition. As noted above, Ambassador Negroponte stated after the adoption of Resolution 1441 that "[t]his resolution does not constrain any member state from acting to defend itself from the threat posed by Iraq," blatantly ignoring the self-defense trigger of an "armed attack" that is contained in Article 51 of the UN Charter. This argument would seem to apply, *mutatis mutandis*, to a "preventive" attack by India against Pakistan (or vice versa); South Korea against North Korea; Israel against Syria (or vice versa); and the United States against Pakistan, which is unstable, has supported terrorists, and possesses nuclear weapons.
- 26 The State Department identifies no fewer than 12 international conventions relating to "terrorism and its victims," ranging from the 1963 Tokyo Convention on Offenses and Certain Other Acts Committed on Board Aircraft to the 1999 Convention for the Suppression of the Financing of Terrorism. None of them declares "war." See <www.state.gov/r/pa/ho/pubs/fs/6093.html>.
- 27 "Interview with now-Vice President Richard Cheney," *The New York Times*, April 13, 1991, reprinted in *The Nation*, November 11, 2002.
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