



THE BOLOGNA CENTER
JOURNAL
OF INTERNATIONAL AFFAIRS

FRIENDLY QUESTIONS TO AMERICA THE POWERFUL
Pierre Hassner

WHAT ABOUT A LATIN AMERICAN MONETARY UNION?
Alicia García-Herrero

*THE UNITED NATIONS AND NATO:
BEYOND THE KOSOVO LEGACY*
Christophe Dongmo

*TERRITORIAL INTEGRITY AND POLITICAL CAPITAL:
RUSSIA'S MOTIVES IN CHECHNYA*
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*PROMOTING STABILITY: THE LENDER OF
LAST RESORT THROUGH HISTORY*
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EDITOR'S NOTE

War in Iraq. Terrorism. The transatlantic divide. While the initial shock of the terrorist attacks of Sept. 11, 2001 has subsided, its aftermath is still unfolding. Iraq is a battleground. The dynamics of world politics seem uncertain. As students of international affairs, we at the Bologna Center watch, learn and respond with interest and concern.

As Pierre Hassner says in his essay "Questions to America the Powerful," "A great number of misunderstandings arise from the failure to think through the notions of victory and power, of war and of terrorism, of hegemony and empire." The intention of the BC Journal of International Affairs is to provide a venue for that thoughtful analysis from our student and professor contributors on issues of the day.

Following the tradition established last year, we decided against a specific theme for this year's Journal edition. This approach allows the Journal to showcase the varied backgrounds and expertise of our authors. The articles deal with issues from several regions – Europe, the United States, Latin America and the Middle East – and varied themes – economic, institutional and political.

Three of our ten articles touch on the United States' role in the Middle East and its decision-making process leading up to the current war in Iraq. Hassner analyses different interpretations of war, terrorism and governance. David Hallisey argues in favor of the U.S. position against a mere containment policy in Iraq and Alastair Coutts provides insight into the 'special relationship' between the United States and Great Britain – and specifically between President George Bush and Prime Minister Tony Blair.

Other topics range the gamut, and also merit attention: Professor Alicia Garcia Herrero looks at alternatives to end economic volatility in Latin America; Gregor Feige examines the historical importance of institutions that serve as lenders of last resort; Josep Desquens argues the economic viability of independence for Spain's Catalonia region; Christophe Dongmo looks at the evolving role of NATO since its intervention in Kosovo; Fumiko Nagano and Johannes Koettl evaluate Russia's motives for keeping a strong grasp on

Chechnya; Rich Palermo outlines concerns with the new International Criminal Court and Catherine Polisi delves into the background of Hindu and Muslim scriptures to argue that inequality is not inherent in these religions.

The issues presented are without doubt among those currently pervading the thoughts of scholars and policy makers. And so it should be at an esteemed institution such as ours, from which many of my colleagues will undoubtedly continue on to be the scholars and policy shapers of the future.

On behalf of the journal's staff and contributors, I present this 2003 edition.

Caryn Nesmith
Editor-in-Chief

FRIENDLY QUESTIONS TO AMERICA THE POWERFUL

By Pierre Hassner

When what W. Fulbright called “the arrogance of power” meets what Hedley Bull called “the arrogance of impotence,” the result can only be misunderstanding and mutual bitterness. A European addressing American friends in their present mood is tempted to remind them of Hegel’s comment on Napoleon faced with the Spanish guerrillas: “the impotence of victory” or of Havel’s formulation on the “power of the powerless.” But he knows that while victory has its risks, as Paul Schroeder has reminded the readers of *National Interest*, the risks of defeat are not necessarily to be preferred, nor the power of the powerful to be dismissed lightly.

A great number of misunderstandings arise from the failure to think through the notions of victory and power, of war and of terrorism, of hegemony and empire.

WHAT KIND OF WAR, AGAINST WHAT KIND OF TERROR?

Contrary to what many Americans believe, Europeans have known for quite a long time about the evils of terrorism and the need to fight it, including by violent means. Equally, they know that the

world has become a very insecure place due to the ability of small groups of fanatics to inflict unprecedented harm upon civilization. Most recognize that a world ruled by law, from which inequalities of power and the possibility of war have been eliminated (an American idea, more than a European one), or a multi-polar world based on the rivalry and cooperation of several more or less equally powerful states (a nostalgic dream of some Europeans which looks more unreal every day), are impossible. In the real world, the United States is much stronger in the classical sense, i.e. militarily and economically than any rival state or coalition and it is the most effective force for good today as yesterday, against totalitarian threats. But the legitimacy and efficacy of America's bid for hegemony and of its war on terror depend on a more differentiated view of the world, than its current mood combining a feeling of victimhood, of vulnerability and of invincibility seems to allow. If a feeling of moral and military superiority over the rest of the world is considered as the essential basis of America's war on terror and of its hegemony it risks compromising both. There is more to hegemony than superiority, more to power than military power, more to terrorism than al Qaeda or Islamic fundamentalism, more to the fight against them than "war" in the classical sense, more to ruling the world, dealing with its problems and fighting its dangers than in the philosophy of American unilateralism or benevolent empire.

On the difference in the attitudes of Americans and Europeans towards the war on terrorism, the best introduction to understanding is the formulation by the Bulgarian political scientist Ivan Krastev, who says: "The Americans feel they are engaged in a war, the Europeans feel they are engaged in preventing one." But this is only half of the truth. The other half is that both Americans and Europeans are engaged in a war against al Qaeda and other terrorist organizations which are waging war on them, but that both have an interest in avoiding that this war be turned into a war of the West against the rest, or into a clash of civilizations, or into a war between rich and poor, North and South, center and periphery, former colonizers and former colonized, or of Christians, Jews and perhaps Hindus against Muslims. It is absolutely crucial to maintain this dis-

inction which is based on differentiating between the organized terrorist movements based on a hatred of liberalism and modernity and on ideological fanaticism, and on the other hand the sources of their recruitment, of their support, or of the sympathy they inspire in the greater part of the world – which are feelings of humiliation, oppression and exclusion. This distinction is all the more important as it is precisely the strategy of the terrorists to blur it by attracting repression on wider circles of the population which they falsely claim to represent.

It is absolutely essential to dispel the feeling of Western weakness based on previous passivity, American as well as European; it is just as essential not to fall into the trap of believing that punishment and retaliation will by themselves provoke the end of terrorism rather than feeding it by inspiring despair and bloody revenge. Most Americans are emphasizing the first aspect more, and most Europeans the second. This is the part of truth in Robert Kagan's interpretation in terms of power and weakness, although if by power one means effectiveness in the struggle against terrorism rather than superior technology and defence budgets, the performance of American intelligence is rather inferior to that of European intelligence. Moreover its post-Vietnam legalistic rules, as well as, on the military level, the doctrine of zero-death and the primacy of force protection are no more European than recent ideas of peace through prosperity and democracy or of global governance. On the European side while it is perfectly true that, particularly in some smaller countries, weakness produces an instinct for accommodation at all costs, it is no less true that some other countries are accustomed to living with terrorism and fighting it and that all may have a better sense than most Americans for the perceptions and the passions of the rest of the world.

The formula of the war against terrorism and its equation with the war of Good against Evil contain a basically admirable message: the unconditional opposition to deliberate attacks on civilian populations. But the translation of this condemnation into a strategy raises a host of moral, legal and political problems.

First, the objectionable word in the expression the 'axis of evil' is not that of 'evil' but that of 'axis' which seems to negate or neglect

the necessary analytical and strategic differentiation between various separate or loosely connected movements and states.

More importantly, if the discriminating criterion is that of death and suffering inflicted upon civilian populations, and if the quality claimed is moral clarity, it must equally apply to strategic bombing directed against cities (those of the allies in World War II, those of Russia in Chechnya, those the U.S. Air Force used in Vietnam and which General Short, unlike General Clark, would have liked to use in Serbia) to reprisals on towns and villages and probably to most economic embargoes.

Any more specific interpretation must move away from moral absolutes in at least one of four possible directions. Is it, as some recent presidential pronouncements would seem to suggest, a Holy Alliance of all states, or of all Great Powers against all insurgent movements, where each ally brings his own definition of terrorism corresponding to its national or ideological opponents; like the Chechens, Kashmiris, Albanians, Chinese dissidents? Or is it a war against global or transnational terrorists leaving aside local movements? Alternatively one could see the war as an international police action against authors of war crimes, of crimes against humanity or of genocide without distinguishing between states and non-governmentals movements or individuals. Finally, at the opposite end, the war can be seen as a defensive operation by the United States and anyone willing to join it against those terrorists who threaten or inflict harm on it and its allies (i.e. mainly against Islamic terrorists) while leaving aside all others or even joining forces with them.

It is clear that American policy and public opinion tend, today, to neglect these distinctions and to lump the last two options together, to the extent that the United States and those who wish it well are considered as the incarnation of the Good, while those who wish them harm are considered as the incarnation of Evil. This may be perfectly legitimate in some political and strategic circumstances, just as it was to be allied with Stalin against Hitler. But it does not justify, giving a clean bill of moral health to the man who perfected the destruction of Grozny and is plausibly accused of organizing terrorist bombings against his own people, or to the authors of geno-

cide in Tibet or even to the man responsible for the massacres of Sabra and Chatyla and for countless reprisals against civilian populations.

Similar problems concern the notion of war. It is legitimate to speak, metaphorically, of a war against terrorism as one speaks of the war against drugs, cancer or poverty and to connect it to the eternal war between good and evil although, as religious writers from Reinhold Niebuhr to Michael Novak have warned, seeing ourselves as Children of Light against Children of Darkness carries the danger of self-righteousness and hubris and may lead us ultimately to become fanatical ourselves. One should never lose sight of Arthur Koestler's saying during the fight against communist totalitarianism: "We are defending a half-truth against a total lie."

However that may be, this never-ending conflict and this metaphysical confrontation should sharply be distinguished from the concept of war as established by the Western tradition, unless one falls into the trap laid by Osama Bin Laden's declaration of *jihad*. A war, classically, is an organized activity that has a beginning and an end, and has rules both concerning the legitimate ways of waging it (*jus in bello*) and the legitimate causes for declaring it (*jus ad bellum*). Of course our time offers many examples of undeclared and unfinished war, but this does not suppress the need for moderating and legitimizing rules substituting, however imperfectly, the rule of law and the judicial authority present in domestic affairs. This is essential for the status of combatants who must either be protected as prisoners of war or judged as presumed criminals.

Of course terrorists pose a special problem and necessity may dictate executing them summarily in times of war. Necessity may also, in an emergency, lead to disregard of legal guarantees in order to prevent an imminent crime or catastrophe, although it should never justify torture even with such thin alibis as practicing it by proxy or outside one's own territory. But the point is that the burden of proof should be on those who practice the exceptional treatment, and that in principle and in the long run no man or state should be deprived of legal guarantees and no authority should be the ultimate judge in its own cause. This, at least, is what has always been understood as

the doctrine, recognized and applied sometimes with excessive legalism by the United States. What is deeply worrying is not that this principle be breached in extreme circumstances but that the breach should be made into a generalized doctrine, the criticism of which should be branded as un- or anti-American. A teacher I have in common with some of the more hawkish members or supporters of the Bush administration, Leo Strauss, has shown that the difference between Machiavelli and Aristotle, was that the former took his bearings by the extreme cases and delighted in showing how far they could be carried and how they revealed the truth about politics, whereas the true statesman, in the Aristotelian sense, took his bearings by the normal case and, while knowing that no action can be totally excluded in front of an evil enemy, made every effort to return to the normal priorities and behavior as quickly and as completely as possible. What amazes the foreign friends of the United States is the ability of Americans to move between the extremes of Kantian idealism and Machiavellian realism.

The same applies to the new doctrine of pre-emption. No reasonable person would deny that if a state has reliable information on a terrorist or any criminal act being about to be perpetrated, it will not wait for the deed to be done but will seize the suspects. Nor would many deny that a pre-emptive strike against a state who is, to the best of one's knowledge, about to attack you is justified in certain circumstances. And finally while the Israeli strike at the Osirak nuclear reactor was criticized by most, including the Reagan administration, it appears retrospectively justified, particularly against a state with which Israel was in principle at war. But all this does not detract from the fact that a central concern both of political philosophy and of modern strategy has been precisely to avoid the security dilemma, the 'reciprocal fear of surprise attack,' the temptation or the necessity of a 'launch on warning' or of pre-emptive war. Certainly, once again, the new American doctrine is based on a concern that is just as valid and urgent: the impossibility to deter terrorists who welcome suicide and who offer no territorial targets for retaliation. But once again, to build upon this situation a doctrine centered around the idea of unilaterally launching a first strike against any

state which possesses or builds weapons of mass destruction (like the United States itself and several of its old or new allies), is suspect of helping terrorists, and hence may, one hypothetical day, facilitate the use of the former by the latter against the United States, means extending the notion of pre-emption to an arbitrary and open ended 'anticipatory defence.' It means creating a situation of permanent or open-ended exception and insecurity. In practice it means permanent war, since there will always be some terrorists and some weapons of mass destruction left, and since suspect states that have been deterred so far will themselves be tempted to pre-empt. Even conceptually, the only end in sight would be total and, so to speak, totally uncontrolled control by the United States.

WHAT KIND OF POWER FOR WHAT KIND OF RULE?

This brings us to the other series of ambiguities, that which surrounds the notion of American hegemony or empire. There is no question that the conditions for American supremacy have grown with every conflict of the last century. Neither World War I, nor nazism, nor communism, nor messianic terrorism were invented or provoked by the United States but in each case its role was decisive in resisting the threat to freedom and civilization and in each case until the last it emerged less scathed than the other powers and able to extend its influence to new territories (which is already happening again for instance in Central Asia) and to the organization of peace. But in each case there were daunting obstacles particularly in the way of the latter task, inducing the contrasting temptation of excessive ambitions and of withdrawal. The aftermath of World War I and World War II stand, of course, in stark contrast in this respect. Woodrow Wilson's excessively idealistic faith in abstract principles and international institutions was followed by a partial retreat to half-isolationist unilateralism except in economic matters. In the forties and fifties, on the other hand, the United States, managed to establish its hegemony solidly on the three pillars of military protection, economic aid and the creation of multilateral institutions. In all these respects it maintained a high degree of superiority and of freedom of

action, while giving its allies a feeling of belonging and, participation, helping them to recover from the war and to unite, thereby running the risk of building up potential rivals, in what Churchill called “the most unsordid act in history.”

Building a new order after November 1989 and, even more, after September 2001 is a much harder task because of several changes that pull in different directions. During the Cold War, the Soviet Union created a constraint that, while not immune against misunderstandings and failures like in Vietnam, did discipline both the withdrawal impulse and the adventurous one. Today the nature of the threat encourages both. Anarchy and civil wars in far away lands encourage the temptation to withdraw or the reluctance to intervene; decentralized fanatical terrorism encourages unilateralism and the temptation to pre-empt. Economically, the international scene has become more complex and more difficult to control; other actors have grown and make it more difficult for the United States either to withdraw from the world or to control its institutions: reciprocity becomes inevitable and the cost of ignoring it increases. Last but not least, global issues involving security (like non-proliferation, the police and financial fight against terrorism and money-laundering) the environment or world health and hunger are increasingly calling for multilateral cooperation and institutions. While the use of force can less and less be left to multilateral institutions and even to coalitions of the willing, the prevention and resolution of conflicts can less and less be left to the unilateral actions of one power, even to an imperial one. Hence the oscillations of the Clinton and even more of the Bush administration, sometimes in a matter of weeks, between, for instance, passivity and engagement, attempts at mediation and alignment on Israeli policy in the Middle East.

The basic tendency, however, is in the direction of the primacy of unilateralism and military power, in a way that may harm the legitimacy and the long-term stability of American leadership. What seems to stand in the way of the acceptability of American hegemony, in this respect, are two kinds of exceptionalism, which one may call the imperial and the nationalist one.

The imperial one consists in a complete asymmetry of rights

and duties between the hegemon and the rest of the world, in the refusal to recognize any superior law or authority that might limit its freedom of action. The last ten years have been occupied by the debate between sovereignists and interventionists, the first claiming that the sovereignty of states was the basis of international order, the second that it should give way to the right of intervention in favor of human rights. The United States seems to have solved this dilemma as far as it is concerned, by claiming for itself, both absolute sovereignty and the absolute right to infringe, including by military force, the sovereignty of others. The Serbian government should be coerced into surrendering Milosevic to the War Crimes Tribunal in the Hague, but it is inconceivable that an American should be indicted, whatever his behavior, by an international court. The United States has the right to detain and interrogate without judgment or access to legal counsel any foreigner, but no foreign or international authority has similar rights against an American. This feeling is so strong that it leads the United States to collide with its best allies, including Britain, and to veto a peace-keeping operation in Bosnia based on an American negotiated agreement and crucial for the future of this country. No wonder, then, that the warnings of Burke, relayed by Owen Harries in *The National Interest* about the lack of credibility of the notion of a “benevolent empire” look more and more prophetic.

This is all the more so when exceptionalism offers not only the grandiose face of imperial hubris, but also the more narrow-minded one of parochial interests. Any imperial power has to balance its interests as a nation and its interests as a leader, which include the interests of the system it leads, i.e. of its empire and to some extent, nowadays, of the planet. This is what Arnold Wolfers called “milieu goals” as opposed to “possession goals” and Albert Hirschmann the “influence effect” as opposed to the “supply effect.”

This is what was well understood in the days of George Marshall. The paradox of the Bush administration is that it is both more ambitiously imperial and more narrowly national than before. It does not hesitate to abandon its free-trade gospel in favor of the interests of its steel industry or of its farmers or to harm its crusade

against weapons of mass destruction because of the distaste of its biotech industry for international intrusion. More importantly, while the imperial logic ultimately leads to Caracalla's edict, by which the Roman emperor extended citizenship to all the subjects of his empire, the current American policy pushes to the extreme the absolute distinction between Americans and non-Americans, between the human rights of an American citizen and of an alien, between the value of an American life and that of allied soldiers, let alone of civilian populations or of enemy combatants. Similarly, what seems shocking is not the rejection of the Kyoto treaty, which may well be justified, but the way it was presented in terms of the absolute priority of American economic interests over global and ecological ones. This distinction has always been there and is reflected in the U.S. Congress's reluctant attitude toward international treaties even when they correspond to American ideas and ideals. But it should be mitigated rather than cast in stone if America is to rule by invitation and consent rather than by force alone.

This is all the more necessary since Americans are not prepared to undergo the risks and the costs – moral and political as well as economic – of direct rule by military occupation. Pure empire is as utopian as pure rule of law or of the United Nations or as a truly multi-polar balance. Only a combination of the three can be promising. In these days when one is rediscovering pagan virtues, American students of antiquity would do well to remember leaving aside the crucial question of the difference between what is acceptable in modern, individualistic society and among the ancients – a number of lessons. Students of Thucydides should remember what follows Pericles's triumphant Funeral Oration and should beware of reproducing the expedition to Sicily. Students of Aristotle's *Politics* could apply to international empire the distinction between well-ordered regimes – like monarchy and republic – who govern in the interests of the ruled, as well as of the rulers and by law rather than arbitrarily and corrupt ones like tyranny. Finally the notion of the mixed regime may well be fruitfully applied to the international order: America should aim at a regime which combines its monarchical rule with respect for international law and multilateral institutions; and those

can have no effective role of advice and consent if they do not contain an element of autonomous or non-American power, hence of multi-polarity. The choice is between authoritarian, if not tyrannical, rule tempered by anarchic resistance and hegemony tempered by law, by concert and by consent.

This is a modified version of an article originally published in the Fall 2002 edition of The National Interest.

WHAT ABOUT A LATIN AMERICAN MONETARY UNION?

By Alicia García Herrero ¹

WHERE DO WE STAND WITH EXCHANGE RATE REGIMES?

Over the last 30 years, Latin America has been among the most volatile regions in the world. There is growing evidence that macroeconomic volatility hampers economic growth, by reducing physical and human investment.² In fact, several studies³ show that reducing Latin America's volatility to the levels of industrial countries (i.e., two or three times below) would increase the region's economic growth by one percentage point a year.

There are many explanations behind the region's high macroeconomic volatility, among which its large dependence on external capital flows, the concentration of exports in commodities, and the all-too-frequent changes in economic policies, particularly exchange rate regimes. In this article, I shall concentrate on the latter, acknowledging that exchange rate regimes are only one of the several macroeconomic policies that can reduce volatility and, thereby, enhance growth.

After the collapse of the Bretton Woods system, Latin America moved from flexible to fixed exchange rate regimes, mainly as a tool

for macroeconomic stabilization. This strategy was put into question with the Mexican crisis, and clearly faltered with the Asian crisis, since it was perceived as having allowed for an excessive accumulation of risks. Since then, and in the context of increasing globalization, the world has moved toward a bi-polar view of exchange rate regimes. On the one hand, mostly large and credible enough countries have moved toward more flexible exchange rate regimes, generally coupled with direct inflation targeting, to anchor expectations. On the other, small countries in need of importing credibility – generally after a crisis – have introduced fixed exchange rate regimes in the form of currency boards and, more recently, unilateral official dollarization.

Throughout this time – and notwithstanding the changes in the exchange regime choices – the dollar has been the only currency used as an anchor in the region. This is explained not only by the economic and financial preponderance of the United States in the Western Hemisphere, but also by the absence of a suitable alternative. Whether the introduction of the euro will change this situation is an open question.

The difficulties experienced in the region in the last two years shows that no exchange rate regime can insulate a country from large macroeconomic volatility. Argentina learned that one cannot buy discipline by tying one's hands with a currency board. Brazil learned that a flexible exchange rate regime is a useful adjustment tool for the current account but can lead to difficult debt dynamics if the exchange rate is key in the setting of financial contracts. From Uruguay's experience, intermediate exchange rate regimes do not seem to be much better. Finally, the experience with official dollarization is too recent to make a judgment but Ecuador's recent financing problems – in a period of high oil prices – calls for caution.

The question, then, is whether there are other options available that have not yet been explored, which could reduce Latin America's macroeconomic volatility. From a European perspective, the obvious one is regional monetary integration, and ultimately a monetary union. Considering this option, at least in theory, becomes more relevant in light of globalization and a possible move toward a more

bi-polar international monetary system with the introduction of the euro.

A regional monetary union could be analysed as a South-South monetary integration or a North-South one (i.e., including the United States). The latter is more appealing but also less likely – at least if conceived as a ‘symmetric’ monetary union as the European Monetary Union is. For this reason I shall focus on the former.

PROS AND CONS OF A LATIN AMERICAN MONETARY UNION

When compared to other exchange rate regimes, a Latin American monetary union would have a number of advantages – and disadvantages – worth mentioning. The main advantage is that it would foster economic and financial integration. In fact, the lack of economic integration, which was one of the main reasons to discard a monetary union as a feasible option in the literature of Optimal Currency Areas, seems now less important thanks to the research developed by Frankel and Rose in 1998. They find that the process of economic integration among different countries may be endogenous to the establishment of a monetary union. It should be noted, though, that the endogeneity argument is also valid in the case of unilateral dollarization, but to a lesser extent because the degree of nominal and real convergence will tend to be lower with the United States than with other Latin American countries.

As an additional step to economic integration, whether a monetary union would also lead to political integration is an open question,⁴ and even more so whether it would be beneficial for the region as a whole.

There are, however, some clearer advantages in the political sphere, not related to political union, which could be obtained from a monetary union when compared with dollarization. A regional monetary union would imply creating a new currency for which all participating countries are jointly responsible, rather than accepting the currency of another country without conditions. This means that Latin American countries would not have to give up the control of monetary policy but rather share it with the other members of the

monetary union. How advantageous it is to 'share' is more of an economic than a political issue. In fact, it depends on how similar the preferences of the countries involved are, in terms of the objectives to be achieved. It also depends on how many instruments are put in place to achieve nominal and real convergence among participating countries. Based on the European experience, a system of income transfers from winners to losers could serve as a basis to increase the advantages for all, on average. How disadvantageous it is as opposed to 'giving up' monetary policy will depend on the relative loss of credibility, as opposed to accepting a stable and safe currency, such as the dollar. The lack of credibility is indeed one of the major disadvantages of a regional monetary union, when compared with dollarization, because of the absence of an anchor country in the region with a long track record of price and exchange rate stability. This is probably the main difference between the European project and the monetary integration process, which could emerge in Latin America.

There are other two advantages of a regional monetary union when compared with dollarization. The first is that seigniorage is not lost but shared. Such loss is not negligible; at best 0.3 percent of GDP in countries with low inflation and widespread dollarisation.⁵ The second is that the central bank lender of last resort functions could remain decentralized, albeit subject to coordination rules, as has happened in the euro zone. This is a particularly relevant advantage for Latin American countries because of the frequency of banking crises.

Another aspect, which could in some cases constitute a disadvantage and in others an advantage, relates to the process of achieving a monetary union. As the European experience reveals, in order to ensure the successful launch of a common currency, a prolonged and sometimes difficult process of working toward the necessary convergence of macroeconomic policies might be needed. This implies a subordination of domestic economic policy priorities to the objective of establishing a regional monetary union. For virtuous countries this constraint might be a disadvantage but not for those in need of reforms. In fact, the commitment to monetary union could

provide the necessary outside 'constraint' to pursue prudent domestic macroeconomic and structural reforms, a kind of external push-factor that gives justification and credibility to sometimes-painful domestic policy choices.

Finally, the main problem with this option is probably time. A Latin American monetary union is certainly a slower option in terms of implementation than any other. Not that it would be unfeasible to create a monetary union in a short period of time but it would probably be a failure because of the lack of convergence. Even the strongest supporters of a regional monetary union – which are very few – regard a timeframe of at least fifteen years a necessary transition period before a well-functioning monetary union can be established, and they usually only refer to a sub-group of countries, namely Mercosur.⁶ It seems clear that slow solutions for countries with urgent problems tend not to be considered, rightly or wrongly.

SOME LESSONS FROM THE EUROPEAN EXPERIENCE

While the prevailing circumstances in Latin America are clearly different from those in Europe when the monetary union was designed, there are still some useful lessons to be drawn. This is particularly so if one recalls that the euro area was far from fulfilling what the pundits considered necessary criteria to become a monetary union. Even now, a good part of the literature would argue that euro area countries do not constitute an optimal currency area.

The first lesson is that a good deal of planning and time is needed for such a project. European economic integration has been a gradual process, driven forward by a number of factors, which sometimes pushed in opposing directions. First, there were political and geo-strategic factors, which set the general frame of reference. In particular, the common experience of the devastating effects of World War II led to a 'shared national trauma,' which orientated countries into a cooperative mould. In fact European integration has been – and remains – wider in scale than economic welfare, since it ultimately aims at ensuring peace, stability and prosperity on these continent. Outside pressure also reinforced this dynamics.

Latin American countries have been fortunate not to be at the epicenter of one of the worst conflicts of the 20th century. In addition, their geo-strategic position placed them somewhat at the fringes of the Cold War bi-polarity. The less pressing geopolitical factors explain, at least in part, the scarce interest that Latin American governments have had for regional integration. However, there is a different type of 'shared national trauma,' which should not be underestimated, namely the prolonged economic policy failures, i.e. high or hyperinflation, under-development, debt crises, and the hardly accepted economic preponderance of the United States.

Second, European economic integration has been pushed forward to the stage of a currency union because further integrative steps were viewed by Member States as coinciding with their national interest or even as part of a 'national project.' Similarly, various interest groups have linked, in one way or another, their individual interests to European integration. This is not so obvious in relatively closed countries, as most Latin American ones are, with a commodity concentration of exports. However, the liberalization process that started with trade in the late 1980s and continued with the domestic financial system and the capital account shows that Latin American countries – or perhaps international organizations which associated their lending to such reforms – are aware of the gains from integration. However, this process has lacked the ambition for greater scope and depth, except for some visionary rhetoric.⁷ In fact, as far as a national project can be discerned in individual Latin American countries, it becomes obvious that their longer-term national ambitions are far from being aligned with ideas of deeper regional integration, though it is possible that a number of countries might reassess their interests as a way to face the challenge of globalization. In other words, as long as regional integration initiatives in Latin America lack the ambition to go beyond mere free trading zones – and thus avoid the necessary real transfer of sovereignty and the subordination of national economic policy to common rules and objectives – exchange rate volatility is likely to remain, except for those countries which opt for the quick fix: dollarization.

Third, while Europe was not considered an optimal currency

area when it embarked in the EMU, it did take bold measures to increase nominal and real convergence. The first was achieved by setting the Maastricht criteria to accede the EMU. This kick-started a process of fiscal consolidation and disinflation, which would have been necessary anyway. The second was enhanced through income transfers from the richer to the poorer countries. It is clear that Latin America is still far from being an optimal currency area⁸ but it is also true that the necessary steps have not been taken yet to converge in real and nominal terms. The European experience shows that there are ways to increase convergence, even if sometimes politically difficult to implement.

A final crucial insight to be gained from Europe's integration is the systemically important role of common institutions. The literature on institutions and institution-building in international relations theory⁹ has amply described the beneficial effects and merits of common institutions as setters of common principles, norms and procedures, as generators of information, as a focus of socialization and as an instrument to build up trust and confidence. This has clearly been the case in Europe where supranational institutions have contributed to broader and deeper integration, not least because of those institutions' bureaucratic self-interest. Such a pro-active role applies in particular to the European Central Bank and the Commission, which not only carry out already centralized policies (most importantly monetary policy) but also act as a policy initiator, unbiased agenda setter and neutral guardian of the Treaty.

By contrast, Latin American integration projects are not endowed with common institutions, even in the most advanced case, Mercosur. Indeed, there is still no recognition that the benefits of institution building to speed up the process of economic integration outweigh the loss of national sovereignty. If the political will to create regional institutions existed, there would be a need for the stronger countries to foster the process. Brazil could conceivably play the role of 'guarantor' of the co-operation arrangement and the upholding of its rules but it is hampered by economic and political instability. The project of a free trade area for the whole western hemisphere also reduces the interest of creating regional institutions.

In sum, in a time where Latin American countries are running out of options to reduce macroeconomic volatility, a monetary union would seem an appealing idea, at least in theory. A cursory look at the pros and cons of such option indicates that the lack of an anchor country that can export credibility, is probably the main difficulty to take this option seriously. However, the European experience shows that the situation was not necessarily much better when the first steps towards integration were taken. What seems clear is that a Latin American monetary union cannot be considered a quick fix to reduce the region's vulnerability but rather a long-term project whose advantages and disadvantages should be pondered carefully before embarking on it. If the advantages do outweigh the costs, a strong political will of Latin American national governments is absolutely crucial to move toward – slowly but steadily – a monetary union.

Notes:

¹ Affiliated with Banco de España, and non resident professor at SAIS Bologna. Address: Banco de España, Alcalá 50, 28014 Madrid (alicia.garcia-herrero@bde.es). The usual disclaimer applies.

² Hausmann and Gavin, 1996

³ Mendoza 1994, and Ramey and Ramey 1994

⁴ Issing 1996 and Issing 2000

⁵ Berg and Borensztein, 2000

⁶ Giambiagi, 1999

⁷ See, for example, statements of the Presidents of Argentina and Brazil on the goal of true common market and a monetary union within MERCOSUR.

⁸ Yeyati and Sturzenegger, 1999

⁹ Keohane, 1984, among others

TERRITORIAL INTEGRITY AND POLITICAL CAPITAL: RUSSIA'S MOTIVES IN CHECHNYA

By Johannes Koettl and Fumiko Nagano

The irony of Russia's inability to end the longstanding Chechen conflict is apparent even to the most uninformed observers. While Chechnya's tenacity to fight the war for independence is readily understandable, Russia's determination to hang on to this small republic in the North Caucasus is puzzling. The argument that separatist movements cannot be resolved by use of force combined with Russia's stubborn insistence on military rather than political solutions to Chechnya merely explains part of the difficulty in ending the struggle.

What indeed is driving Russia to continue fighting? What is so significant about Chechnya that Russia feels the need to hold on to it despite the heavy human toll, military humiliation and economic burden?

The most commonly cited justifications for Russia's resolve to maintain control over Chechnya include the fear of the domino effect, the importance of the oil pipelines and the need to prevent the spread of Islamic fundamentalism and crime. However, these explanations are not sufficient to fully account for Chechnya's signifi-

cance to Russia. The more compelling reasoning behind the Chechen riddle lies not in Russia's desire to control Chechnya *per se*, but instead, in its need to defend its territorial integrity and in its inclination to use Chechnya as a tool to divert public scrutiny, exert political influence and renew the prestige of the humiliated military.

In order to understand the forces that have not only ignited, but also contributed to the continuation of the current conflict, it is necessary to understand Russia's perspective during both the first and second Chechen war. Therefore, the focus of the analysis is on the Russian politics and perception of the Chechen conflict.¹

CHECHNYA'S STRUGGLE FOR INDEPENDENCE²

A brief summary of Chechnya's history, starting from Russia's first attempts to control the Caucasus region to the beginning of the second war, reveals that the rift between Chechnya and Russia has existed for centuries. As early as the 18th century, the Chechens have fought Russian invasion and imperial expansion into their lands. The Caucasus War that lasted from 1817 to 1864 led to the growth of Islam, and in particular, of Sufism, a type of orthodox Islam based on tight-knit, clan-like brotherhoods. The relationship between the Russians and Chechens deteriorated further when Stalin, accusing the Chechen and Ingush nations of collaborating with the Germans, ordered the mass deportation of 450,000 Chechens to Kazakhstan in 1944.³ It was only in 1957 under Khrushchev that the Chechens were allowed to return.⁴

After their return, the rebellious Chechens and the pro-Russian Ingush were administratively joined in an autonomous republic, according to Moscow's strategy of divide and rule. "Russification," a practice of mobilizing ethnic Russians to positions of power to ensure the republics' loyalty to the Kremlin, was aggressively promoted in Chechnya. The recruited were given the task of running the highly profitable oil dwelling and refinery industry, which left the Chechens systematically disadvantaged.

After the collapse of the Soviet Union, Chechnya, led by General Dzhokhar Dudayev, declared independence in November

1991. In the following years, Dudayev's primary goal was to maximally arm Chechnya through the acquisition of weapons from abroad and the confiscation of Soviet weaponry remaining on Chechen ground. In the process, Dudayev tried but failed to build strong state institutions in Chechnya.

In response to the Chechen declaration of independence, Russia attempted to resolve the issue by offering Chechnya the "Tatarstan model," one year earlier than the agreement was presented to Tatarstan itself.⁵ The February 1994 treaty between Russia and Tatarstan described Tatarstan as a "sovereign state," "associated with Russia on the basis of the constitutions of the two states."⁶ While the treaty gave Tatarstan significant economic and political rights, it effectively kept the republic within the Russian Federation.⁷ When Chechnya rejected this option, demanding autonomy and declaring secession, President Boris Yeltsin launched the first Chechen war in November 1994. From Yeltsin's point of view, the Russian government "[could] not stand idly by while a piece of Russia [broke] off, because that would be the beginning of the collapse of the country."⁸

The first Chechen war ended in August 1996, when General Alexander Lebed, then Chief of the Russian National Security Council, and General Aslan Maskhadov, the new Chechen leader after Dudayev's death, met in Dagestan to sign the Khasavyurt Accords. The accords called for a complete withdrawal of Russian troops from Chechnya. Subsequently, in the February 1997 Chechen presidential election, Maskhadov emerged a victor. In May 1997, Yeltsin and Maskhadov met in Moscow to sign a peace treaty, which gave the Chechen Republic of Ichkeria *de facto* independence.⁹

The end of the first Chechen war led to an internal strife within the republic, characterized by the rampant spread of crime and Islamic fundamentalism that transformed Chechnya into a criminal state. Meanwhile, Russia did not fulfill its obligations of the 1997 peace treaty and refused to work with the Maskhadov administration. Tensions between Russia and Chechnya were constantly rising.

Eventually, two key events triggered the second Chechen war. In August 1999, a Chechen rebel group invaded Dagestan, a neighboring republic, to ignite an Islamic insurgency. Then in September

1999, a series of bomb blasts in apartment buildings killed hundreds of civilians in various cities in Russia. The newly appointed Prime Minister Vladimir Putin linked the Chechens to the terror acts, calling for a decisive action to ensure Russian security. Russia officially declared war on Chechnya on Oct. 1, 1999. Initially aiming for the establishment of a security zone north of the Terek River, the Russian military strategy gradually shifted to aiming to seize the entire Chechen territory.¹⁰

THE IMPORTANCE OF CHECHNYA: COMMONLY-CITED REASONS

From all objective standpoints, a favorable agreement between Russia and Chechnya was reached at the conclusion of the first war. Unfortunately, peace only lasted for a little over two years. Just as in 1994, Russia again opted for military intervention in 1999. What was driving Russia's determination to keep Chechnya under its jurisdiction?

Several reasons are frequently given to explain Russia's need to maintain control over Chechnya: the domino effect; oil; Islamic fundamentalism; and crime. However, a close examination renders these explanations obsolete or insufficient.

The Domino Effect

The threat of the domino effect has been cited by the media as well as by the administrations of both Yeltsin and Putin as a justification for holding onto Chechnya. However valid these fears –that Chechnya's secession would trigger a series of similar secession attempts by other republics of the Russian Federation – may have been at the beginning of the 1990s, they no longer seem relevant today.

First, the regions of Russia today lack the popular secessionist movements that existed in the former Soviet Union, such as those in the Baltics and Ukraine, which led to the Union's subsequent dissolution. Secondly, Russian regions do not have strong separatist leaders who could unite them in a fight for secession. In fact, many leaders of the republics are old Soviet *apparatchiks* who remain

mainly loyal to Russia. Also, while at one point the leaders of Tatarstan, Bashkortostan, and Sakha brought up the issue of separatism, they quickly withdrew their complaints when offered economic incentives by Moscow.¹¹ Finally, the Russian federal constitution that was put into effect after the breakup of the Soviet Union gave substantial autonomy rights to regional authorities. Out of 89 regions that constitute the Russian Federation, over forty regions negotiated for special autonomy rights, which granted them additional power. As a result, all Russian regions that agreed to the new constitution, and especially those that negotiated for further rights, are content to be part of the federation.

Several facts further refute the domino theory. First, the initial Chechen war did not end in the other republics joining the separatist movement and demanding independence. Secondly, Chechnya failed to “free” Dagestan of Russian control in August 1999. On the contrary, the Chechen incursion was met with a strong Dagestani resistance and popular hostility, culminating in the retreat of the Chechen group as the Dagestanis combined forces with the Russians to drive out the Chechens.¹² This reaction demonstrates that even the republics in the North Caucasus, which are considered most secession-prone, would not be strongly inclined to secede, even with explicit encouragement from their Chechen counterparts. Therefore, the applicability of the domino theory to Chechnya is limited.

Oil

The second argument for Chechnya’s significance to Russia involves the strategic location of Chechnya as home to oil reserves and pipelines. Prior to 1991, Chechnya was reportedly rich in oil reserves and refineries, producing 80 percent of the former Soviet Union’s jet fuel requirements. In fact, it was oil that allowed Chechnya to finance the first Chechen war – the Chechens dug new wells, refined extracted petrol and sold it to neighboring republics.¹³ Nevertheless, oil deposits in Chechnya “have been nearing depletion since the late 1970s.”¹⁴

The oil issue is more compelling with respect not to oil reserves, but rather to oil pipelines, which stretch from Azerbaijan to Russia. However, even in this examination of Chechnya's location and its strategic and geopolitical significance, a look at a map of the North Caucasus renders the argument favoring the importance of the oil pipelines in Chechnya somewhat over-inflated. Pipelines could easily be built around Chechnya in the neighboring Dagestan. In addition, the existing pipeline through Chechnya had the capacity to transport only five million tons of oil per year.¹⁵

In September 1997, then Deputy Prime Minister Boris Nemtsov announced the government's decision to build another pipeline through Dagestan. After the first Chechen war, Russia's Transneft pipeline transport company and Chechen government officials disagreed over issues ranging from regional security to pipeline tariffs. Subsequently, with the beginning of the second Chechen war in 1999, Transneft was compelled to build a Chechnya bypass. A new pipeline capable of transporting 300,000 barrels per day was completed in 2000.¹⁶

Islamic Fundamentalism and Crime

Finally, Russia cites its interest in stopping the spread of Islamic fundamentalism and crime as another reason for wanting to bring Chechnya under control. In comparison to the domino effect and the oil issue, the security threat that Islamic fundamentalism and crime may pose on the integrity of the Russian Federation has some credibility. However, Russia is at least partially responsible for the growth of these negative forces within Chechnya.

The spread of Islamic fundamentalism and crime throughout Chechnya took place concurrently, each fueling the growth of the other. The development of these negative factors is linked primarily to the Maskhadov administration's inability to build a strong Chechen nation state after the end of the first Chechen war. Once the external threat from Russia disappeared, the Chechens shifted their loyalty from their republic to their respective clans, or *teips*. Approximately 150 such *teips* existed in Chechnya, each of which began to fight for

influence and power. A 1998 study identified altogether 23 prominent warlords, their *teip* affiliation, and territory under control.¹⁷

The *teips* heavily engaged in criminal activities, turning Chechnya into a major international marketplace for arms, drugs, human trafficking and money laundering. In particular, the kidnapping business became an important industry in the Chechen criminal world. A study conducted in 2001 showed that between 1997 and 1999, approximately 6,000 individuals were kidnapped, of whom 3,400 remained missing at the time of its publication.¹⁸ Due to the risk of blood vendetta associated with kidnapping a Chechen, the majority of the victims were Russians and foreigners. Kidnapping was used repeatedly by Makhadov's opponents in Chechnya as a means to prevent his efforts to maintain good relations with Russia.¹⁹

Partly as a reaction to the increasing chaos and crime, fundamental Wahhabism began to spread in Chechnya. One of the most noteworthy leaders of the fundamental Wahhabist movement was Khattab, who arrived in Chechnya during the first Chechen war. Influenced by Osama bin Laden, Khattab called for an everlasting fight against the "false" Islam, and against the enemies of Islam, identifying Russia as the greatest enemy. Previously having fought in Afghanistan and Tajikistan, Khattab enjoyed a large following of Chechen warlords – a development that was perceived by Moscow as a security threat.

It was not Maskhadov's lack of trying to prevent it that the situation in Chechnya gave way to crime and Islamic fundamentalism. After the conclusion of the first war, Maskhadov struggled to establish a secular state with normal relations with Russia. Facing strong opposition from groups of warlords who pushed for an Islamic theocratic state, he attempted to strengthen his position by seeking a compromise with the opposition. He failed and was forced to capitulate to the warlords' demands. Subsequently, a *sharia*-based constitution was introduced in February 1999. In June 1999, Maskhadov, in an attempt to bring stability to Chechnya, called for the population to mobilize in the fight against terrorism, crime and kidnapping.

At least part of the blame for Maskhadov's failure to develop a stable Chechen nation state during the two Chechen wars has been attributed to the attitude of the Russian government. By refusing to cooperate with the Chechen leadership, the Russian government did not give legitimacy to the Maskhadov administration, thereby weakening his position. Accordingly, Chechnya was unable to be recognized internationally as an independent state:

"Politically, Chechnya remained hostage to Russia's unwillingness to recognize its independence, thus preventing the rest of the world's governments from extending diplomatic recognition and any kind of officially-sanctioned aid... Chechnya was thus relegated to the category of Russia's many internal problems."²⁰

Due to Maskhadov's failure to build effective state institutions, the Chechen society drifted into chaos, transforming into a criminal state that indeed represented a security risk for the Russian Federation. Hence, the Russian position that Chechnya had to be contained to eradicate the security threat cannot be categorically rejected. However, the growth of Islamic fundamentalism and crime alone is still insufficient to fully explain Russia's strong interest in maintaining control over Chechnya.

CHECHNYA'S SIGNIFICANCE TO RUSSIA: ALTERNATIVE REASONS

With the most widely cited arguments for Chechnya's importance to Russia significantly weakened, alternative explanations must be sought. There are two main reasons for Russia's inability to allow for Chechen independence: Russia's determination to maintain its territorial integrity at all costs, and Chechnya's role as a tool for Russian politicians to serve their short-term political interests.

THE IMPORTANCE OF TERRITORIAL INTEGRITY

Every state seeks to maintain its territorial integrity, as territorial integrity symbolizes the survival and strength of that state.

Therefore, it is no surprise that Russia could not possibly allow Chechnya to secede from the federation. Russia would have reacted similarly to any other republic trying to secede from the federation. In this sense, Russia is no exception, because for every state, the preservation of territorial integrity is the security issue of utmost importance. For example, in July 2002, several Moroccan soldiers took possession of Parsley Island, a small island under the Spanish sovereignty with insignificant strategic value, located in the Mediterranean on the coast of Morocco. Despite its limited relevance to Spain, Spain took this matter seriously, sending in troops to “reconquer” the island.²¹ However ridiculous this event may be to an outsider, this example shows the importance of territorial integrity to a state.²²

In the Chechen case, the perception of the Russian government was that Chechnya would settle only for full independence. Therefore, in order to maintain territorial integrity, the only solution that Russia saw in ending this conflict was to exert full control over Chechnya. Full control signified eliminating the entire independence movement and installing a pro-Russian administration in its place. Russia came to a conclusion that to regain full control over Chechnya, coercive means — in particular, the use of force — rather than negotiations, was necessary.

As a matter of fact, in the beginning of the 1990s, Russia was inclined to find a political solution to the conflict. Following Dudayev’s 1991 declaration of Chechen independence, Russia offered Chechnya sub-state autonomy similar to the Tatarstan model. Under this agreement, Russia would have been able to keep its territorial integrity intact while giving substantial rights of self-determination to Chechnya. However, when Chechnya fully rejected this possibility and demanded outright secession, Russia perceived that the only way to keep its sovereignty over Chechnya was through regaining full control of the republic through military means.

Moreover, Russia expected the military approach to the Chechen conflict to be a relatively straightforward and feasible option for regaining control of the breakaway republic. Russia’s delusion of great military power, combined with the size of Chechnya,

made this strategy tempting to the Russian elite. As a result, Russia made multiple attempts to resolve the issue strictly with the use of force.

Covert Action Against Dudayev Before the First War

Before the first war was launched, the Russian administration favored the use of force to restore full control over Chechnya. This is demonstrated by Yeltsin's strict refusal to meet with Chechen leader Dzhokhar Dudayev²³ — an indication of Yeltsin's decision not to find a political solution.

Instead, Russia began to covertly support the Chechen opposition groups in the pro-Russian territories north of the Terek River.²⁴ For example, Russia provided substantial financial and military assistance to the Congress of the Peoples of Chechnya even before the beginning of the first war. This Congress, established by the pro-Russian leader Umar Avturkhanov in June 1994, aimed to organize opposition to Dudayev. Shortly before the Russian invasion in December 1994, the anti-Dudayev opposition confirmed having received 40 billion rubles from the Russian government.²⁵ In late September 1994, Avturkhanov validated having at his disposal abundant supplies of MI-24 and MI-8 helicopters, which were supplied by the Russian government.²⁶ In addition, to promote pro-Russian sentiments within Chechnya, the Russian government began to pay wages and pensions to the inhabitants of the Upper Terek Region in 1994.²⁷

The bizarre behavior of the Russian government of ordering an invasion into Grozny, only to recall it after its successful completion also points to the likelihood that Moscow's only goal was full control. Having received the order from the Kremlin, Avturkhanov invaded Grozny with his Russian-equipped, but entirely Chechen-comprised forces in October 1994. Expecting heavy resistance, Avturkhanov was stunned when his invasion was only met with weak resistance from Dudayev's perplexed and indecisive security forces. Apparently, Dudayev's forces and Avturkhanov's troops had few intentions to fight each other, as the Chechens were not willing to fight against their own people. When the invasion proved a success, how-

ever, Moscow ordered a retreat, suddenly fearing that a peaceful overthrow of the Dudayev regime would not leave it in its desired position of total control.²⁸

Over the next several weeks, Moscow constantly increased the weapons support to Avturkhanov, but the opposition forces became more inefficient the more heavy weapons they received. Many of these weapons disappeared or were resold. Finally, Moscow decided to extend its support by sending privately contracted Russian soldiers to help the opposition fighters.²⁹

The next invasion attempt in November 1994 with heavy tanks turned into a fiasco, as the invading opposition troops also engaged in fighting. Dudayev's forces showed their superiority over the opposition troops.³⁰ Following the failure of the Kremlin's strategy to effectively arm the anti-Dudayev forces, Yeltsin decided for outright war. In its desire to gain control over Chechnya, Moscow gradually shifted its strategy from one of low-profile covert action to that of the most massive military operation since the Afghan War.

The Circumstances Surrounding the End of the First War

The Khasavyurt Accords that marked the end of the first war and symbolized the first step toward a political solution only resulted out of military necessity. As a matter of fact, the Russian elite strongly opposed the accords and the subsequent peace treaty — another indication that Moscow was unwilling to give up full control.

After one and a half years of war, Yeltsin negotiated a ceasefire agreement in May 1996, which he promptly broke in June 1996. Shortly thereafter, the Russian military quickly lost Grozny. The Chechen offensive launched in August 1996 overthrew the Russian federal troops, killing at least 600 Russian soldiers and wounding over a thousand.³¹ Russian military positions throughout Chechnya crumbled as resistance detachments reemerged in a number of areas in quick succession.

The negotiations of the Khasavyurt Accords were conducted against the will of the Moscow political elite. After Russia's strategic position had been severely harmed, General Lebed took action

on Aug. 11, 1996, secretly starting talks with the Chechen rebels. On Aug. 19, however, Yeltsin issued an order to recapture Grozny by force, demonstrating his unwillingness to find a peaceful solution. Lebed, partly disregarding the order and re-interpreting others, flew to Chechnya on Aug. 20, and used the power of his office to cancel the attack. On Aug. 31, Lebed and Aslan Maskhadov, the leader of the Chechens after Duadayev's death, signed a declaration in the Dagestani border town of Khasavyurt. Both parties agreed to end hostilities and solve the conflict politically.

Once the accords were signed, Lebed had to justify his actions and the results he achieved to Moscow. The Moscow political elite was fiercely critical of Lebed's actions. Nationalist and communist leaders called the idea of a treaty between Russia and one of its constituents ridiculous. Prime Minister Viktor Chernomyrdin called it "a political document without any judicial weight."³² Yeltsin first refused to meet with Lebed, expressing reservations concerning the pull-out from Chechnya in a September 1996 television interview. However, the momentum of the war was broken. The Russian military faced an extremely difficult strategic position after the Chechen August 1996 campaign. In addition, the war in Chechnya meant a heavy economic burden for Russia, which partly contributed to the unpopularity of the war. Out of these necessities, Yeltsin finally accepted the Khasavyurt Accords and in November 1996, he ordered the complete withdrawal of all troops from Chechnya.³³ On May 12, 1997, he met with Maskhadov, the newly elected president of the Chechen Republic, and signed a far-reaching peace treaty. A political solution seemed within reach, but once again later developments proved that Moscow was unwilling to settle for a solution that did not give it full control.

Developments During the Interwar Years

The Russian interest in a political solution faded as the military and political restraints that forced the Khasavyurt Accords eroded. The developments during the period between two wars show the insincerity of Moscow's peace offer to Chechnya at the end of the first

war. In fact, the decision to re-launch war on Chechnya had already been made months in advance of October 1999.

Following the peace treaty, the Yeltsin administration did not comply with its obligations. Economic cooperation and reconstruction did not take place, and from August 1997 on, Yeltsin even refused to meet Maskhadov.³⁴ Moscow started to interfere in Chechen domestic politics, benefiting from the chaotic situation there. Just as in the period before the first war, Russia started to actively support various warlords in opposition to the Chechen leadership, while at the same time constantly pointing to the security threat to Russia emerging from the growing chaos, crime and Islamic fundamentalism in Chechnya.

In Russia, there were tendencies among the political leaders to push for a revision of the accords of 1996 and 1997. The ceasefire reached with the Khasavyurt Accord was called a betrayal of Russia's interests.³⁵ In a television interview with channel ORT on Feb. 7, 2000, acting President Putin compared the "defeatism" shown by the 1996 signing of the accord with the behavior of the Bolsheviks in World War I.³⁶ A further investigation into the events in Russia between 1996 and 1999 suggests that the decision to intervene in Chechnya militarily had already been taken in 1998.³⁷

Also, the Russian armed forces, having experienced devastating humiliation in the first war, actively sought a military solution to Chechnya after the first Chechen war. While agreeing to withdraw from Chechnya under the Khasavyurt Accords out of a purely military need, Russia kept a strong force in the North Caucasus and reorganized its capabilities to allow for a combined action of the army and the Ministry of the Interior forces.³⁸ Troops were trained for insurgency operations. In July 1998, exercises were conducted in the territories of Dagestan, North Ossetia, Ingushetia, Kabardin Balkaria, and Stavropol with the participation of 15,000 soldiers. In the exercise, Russian soldiers were training against a potential scenario of mass attacks by bandit groups and individual terrorists.³⁹

When exactly the decision for a second military intervention was made is not clear. According to the Chechen informal ambassador to Moscow, Vatshgaev, the decision was made in a meeting of

the National Security Council in December 1998. In addition, former Prime Minister Sergei Stepashin confirmed that the preparations for the intervention started in March 1999.⁴⁰ In autumn 1998, a Joint Coordination Staff for the North Caucasus had already been established.⁴¹

In summary, Russia's unwillingness to relinquish full control over the breakaway republic is primarily a result of Russia's reluctance to lose its territorial integrity, combined with its perception that Chechnya would refuse to negotiate for a political solution. This stance was further complicated by the temptation for Russia to solve the conflict through military means, which was perceived as a viable option before the first war given Chechnya's size and Russia's delusion of military might.

CHECHNYA AS A POLITICAL TOOL

The second argument for Russia's determination to hold onto Chechnya is the vital role that Chechnya plays as a tool for Russian politicians. In particular, Boris Yeltsin, Alexander Lebed, Vladimir Putin, and the Russian military took advantage of the Chechen conflict to further their interests. An examination of the each of these parties' actions as well as of the existing conditions in Russia reveals that Chechnya indeed fulfilled a political need: a diversion from the real problems in the country, a means to manipulate public opinion and gain favorable rating, and an enemy against which to revitalize the prestige of the military.

The End of the First War

The behavior of Yeltsin and Lebed during the first Chechen war demonstrates that Chechnya was caught in the political power struggle between the two politicians. The unpopular war was a weapon that could be used to manipulate public opinion for short-term gain in popular rating.

Yeltsin's actions immediately before and after the June 1996 presidential elections clearly demonstrate that he used Chechnya as

a campaign tactic. The first war was extremely unpopular among the Russian population, but Yeltsin had no intentions to end the conflict. In fact, it was only in order to regain public support to ensure election victory that prompted Yeltsin to negotiate a ceasefire agreement with Chechnya in May 1996. The insincerity of Yeltsin's desire to resolve the situation was confirmed when he promptly renewed the fighting in Chechnya on June 17, 1996, just one day after he was reelected for the second term.

Similarly, Lebed's political ambitions were the underlying factor that propelled him to play the role of the great peacemaker in the first war. Lebed finished third in the June 1996 presidential elections — a surprisingly successful performance that subsequently earned him the powerful position of National Security Council Chief and Yeltsin's military adviser. Due to his overwhelming popularity, critics even placed him among the top contenders for the future Russian presidency. Lebed was aiming high when he exploited the Chechen conflict to elevate himself politically.

Voicing consensus with the majority of the Russian public, Lebed opposed the war in Chechnya from the outset, questioning both the military and political rationale behind the war. After the fighting resumed in June 1996, the general watched as the Russian military positions throughout Chechnya fell apart in the face of the Chechen retaliation. In August 1996, Lebed, took action against the wishes of the Russian elite. He single-handedly flew to Dagestan secretly, and from there, drove into Chechnya alone, taking high personal risks. In Chechnya, he met with Aslan Maskhadov, then Chechen chief-of-staff, to outline a preliminary ceasefire agreement. Tensions between Yeltsin and Lebed came to a head when Lebed disregarded Yeltsin's direct order in August 1996 to recapture Grozny by force. In fact, Lebed not only canceled the planned attack, but also negotiated a ceasefire agreement with Maskhadov and Zelimkhan Yandarbiev, the main leaders of the Chechen resistance. The entire process eventually led to the signing of the Khasavyurt Accords.⁴²

Once the accords were signed, Lebed returned triumphantly to Moscow, celebrated by the press, but faced fierce criticism from the Moscow political elite. Yeltsin initially refused to meet with Lebed,

but public support for the end of the first war forced him to approve Lebed's efforts soon afterwards.

There should be no questions that Lebed's personal ambitions prompted him to push for the end of the first war. With the political zenith — the post of Russian presidency — seemingly within reach, Lebed had neither scruples nor qualms about publicly humiliating Yeltsin to gain political capital and to solidify his career. However, the public support and fame Lebed gained through his role in ending the first Chechen war were not enough to shield him from Yeltsin's executive power. Yeltsin fired Lebed in October 1996 for insubordination.

The Start of the Second War

The existing internal conditions in Russia before the second Chechen war, compounded by the devastating humiliation experienced by the Russian military at the end of the first war, led Russia to view Chechnya as a convenient tool to be used. The second war began for two primary reasons: the aforementioned perception that a political solution would not allow Russia to maintain sovereignty over Chechnya and the convenience of using Chechnya for political reasons. With respect to the second argument, Chechnya played three roles at the onset of the second war: a target against which to renew the prestige of the Russian military, a distraction with which to shift public scrutiny away from Yeltsin, and a means with which to solidify the popularity of Putin.

First, the Russian military was ever eager to re-launch war on Chechnya after suffering a humiliating defeat in the first war. In order to renew the prestige of the once powerful military, the Russian generals felt it necessary and feasible to crush Chechnya once and for all through the use of force. The Russian military assured the Kremlin that it had learned from the mistakes of the first war, and that it was more prepared than ever to decisively defeat Chechnya. It is important to recall that the conditions under which Russia accepted military defeat was out of necessity, and not out of sincere desire to put an end to the conflict through a political solution. In

fact, the Russian military had been preparing for the second war as early as in July 1998.⁴³

Secondly, the economic and political conditions in Russia in 1999 show that the Yeltsin administration was in dire need of a diversion that would shift the growing public dissatisfaction from the government's performance. The public was not happy with the Yeltsin administration for two reasons: the Kremlin's inability to stabilize the economy after the August 1998 Russian financial crisis that ended in bank failures and a four-fold ruble devaluation,⁴⁴ and corruption allegations surrounding the presidency. In particular, the corruption charges dealt a heavy blow to the legitimacy of the administration. In August 1999, the Russian public saw the Bank of New York money laundering scandal unfold before their eyes. Approximately US\$7 million in Russian dirty money was allegedly funneled through Bank of New York. Some of the International Monetary Fund (IMF) loan given to the Russian government on the eve of the August 1998 crisis was also purportedly siphoned through the bank.⁴⁵ This rumor, fueled by the media allegations loosely linking the Yeltsin 'family' in the affair, caused public confidence in the government to plummet.

Finally, Chechnya served as a means with which to solidify the popularity of Putin, a vital interest for the Yeltsin administration in August 1999. In addition to the ailing economy and rampant corruption charges, Yeltsin and his family faced the difficult task of finding a suitable successor as Yeltsin prepared to leave office. To assure himself of a peaceful retirement, Yeltsin needed an ally who would protect the interests of the family.⁴⁶ Putin was deemed to be that man.

It was against this background that two key events occurred, which the Russian government claimed had forced it to wage an offensive against Chechnya: the Chechen invasion into Dagestan and a series of explosions in various Russian cities. In August 1999, Chechen military 'field commander' Shamil Basayev and Khattab invaded Dagestan in an effort to start an Islamic uprising. Then, in September 1999, a series of apartment building bombings in Buinaksk, Moscow, and Volgodonsk killed nearly 300 civilians and

wounded over 550, sweeping the entire country into a frenzy and instilling fear in the citizens living in Russia.⁴⁷ The Russian government was quick to accuse the Chechens for the terror acts, although the Chechen regime denied involvement.

The Chechen invasion of Dagestan and the terrorist acts in Russia set the stage for Vladimir Putin, a then little-known former KGB officer whom Yeltsin had just named his Prime Minister in August 1999. Putin used the rhetoric of fighting the spread of Islamic fundamentalism as well as terrorism to launch a military campaign to bomb Chechnya. His tough stance instantaneously made him popular and his approval rating soared. Curiously, in June of 1999, most political parties represented in the State Duma, the Russian parliament, furiously demanded Yeltsin's removal from office for "unleashing the war in Chechnya," but by November of the same year the majority of the Duma deputies supported the war.⁴⁸

A plethora of research has been conducted that suggests the possibility of the Russian government's involvement in the orchestration of the apartment building bombings, which was brought to light with the Ryazan incident. There, the agents of the Federal Security Service (FSB), a successor organization to the KGB, were caught placing a bomb in the basement of a civilian apartment building. When asked to explain the nature of the operation, the FSB declined to elaborate on grounds of secrecy and sealed the documents relating to the incident for 75 years.⁴⁹ To date, there have been no arrests made in the apartment bombings and the Russian government officially continues to claim that the explosions were acts of retaliation by the Chechens for Russia's military response to the Dagestan invasion. However, the mere complexity of planning a series of bombings in various cities would have presented serious logistical and technical difficulties for the Chechen rebels, requiring months of preparation. In addition, the Russian attack against the Chechen insurgency in Dagestan was conducted only days before the apartment building explosions, making it highly unlikely that the Chechens would have been able to mastermind this complex operation.⁵⁰

The validity of these theories aside, the fact remains that these

incidents swept fear throughout Russia that helped increase anti-Chechen sentiments. The re-launch of the military campaign in Chechnya greatly benefited three parties in particular: the Russian military, Yeltsin, and Putin. First, the Chechen invasion of Dagestan and the subsequent start of the second war gave the Russian military the much-awaited opportunity to avenge the defeat of the first war. Secondly, the apartment bombings allowed the Yeltsin government to shift public scrutiny from its struggling economy and corruption allegations to a much graver problem: the threat of Russia's security. In the wake of the apartment bombings, the country united as it faced a common "enemy." Lastly, Putin's popularity rating, which had been 2 percent, skyrocketed as he declared the bombing of Chechnya in September 1999.⁵¹

"The chief factor that prevented the possibility of stopping the Russian military... was the Russian pre-election requirement for a 'victorious war.'... The popularity ratings of presidential candidate Putin and those of the parties he supported during the Duma campaign were closely linked with a military solution to the Chechen problem. If Putin had abandoned an offensive strategy in favor of simply digging in, his popularity could have fallen as rapidly as it had risen⁵²

The war in Chechnya assured Putin of his presidency in the election of March 2000, which suited both his own power ambitions and the interests of the Yeltsin administration.

Therefore, an analysis of the behavior of the Russian politicians - in particular, that of Yeltsin, Lebed, and Putin - as well as that of the Russian military, proves that Chechnya was indispensable to Russia at the conclusion of the first war and at the beginning of the second war as an important political tool.

CONCLUSION

An examination of the most commonly cited explanations for Russia's resolve to control Chechnya — the domino effect, oil, the spread of Islamic fundamentalism and crime — shows that these

arguments are not sufficient to fully explain Russia's unrelenting stance on Chechnya. The domino effect is not relevant because the Russian Federation today will not fall apart if Chechnya were granted independence. The oil issue is obsolete because oil supply in Chechnya is in the process of depletion, and a pipeline bypassing Chechnya has been constructed. Admittedly, there is a security threat stemming from the growth of both Islamic fundamentalism and crime within Chechnya, but the need to contain this threat cannot solve the Chechen riddle.

The reasons for Russia's need to maintain control over Chechnya are Russia's justifiable desire to preserve its territorial integrity and Chechnya's usability as a political tool for opportunistic politicians. First, Russia feared that without regaining full control over Chechnya — eliminating first the Dudayev, then the Maskhadov administrations — it would not be able to keep its sovereignty over Chechnya. Russia perceived that the Chechen leaders would not settle for anything less than full independence, therefore, negotiations were not an alternative. The only way for Russia to keep sovereignty, Russia believed, was by overthrowing the leadership in place through military means. Secondly, Chechnya was used by politicians, namely Yeltsin, Lebed, and Putin, as a means to manipulate public opinion. The Russian military also acted as a catalyst in the renewal of fighting, reaffirming its readiness for and interest in the second war to reestablish its reputation. An analysis of the actions taken by these politicians amid vicious power struggles demonstrates that Chechnya was a welcome opportunity to be exploited for short-term political gain. Both of these arguments prove that it was not Chechnya or its uniqueness that compelled Russia to hold onto this republic. Russia reacted to its basic need to defend the unity of the state. Similarly, the Russian elite acted according to their basic desires to gain political capital.

The current situation looks optimistic. The March 2003 referendum in Chechnya, although conducted under debatable circumstances, has received a nearly 96 percent approval rating from the voting public for the new Russia-backed constitution.⁵³ Finally, Russia seems willing to settle for a political solution now that it is in full

control of Chechnya and is assured of keeping sovereignty over the republic. Following the vote, Putin commented that the overwhelming support for the referendum removed “the last serious problem in relation to Russia’s territorial integrity.”⁵⁴

This development is a promising first step toward a political solution. In fact, it seems likely that the Putin administration is prepared to grant autonomy to Chechnya as part of its “exit strategy” from the conflict.⁵⁵ There should be no illusions, however, about the current situation in Chechnya. Many refugees living in camps outside of the republic are fearful of returning. Catastrophic human rights conditions exist as a result of continuing atrocities committed by the Russian military. The Chechen rebels, pushed far into the mountains of the Chechen-Georgian border, are likely to continue their sporadic attacks on the Russian soldiers and the Russia-backed administration. Terrorism will certainly not disappear overnight and the prospect that Chechnya will become comparable to the Basque country in Spain or to Northern Ireland before the Good Friday agreement is large. Still, given the unfavorable position of the Chechen rebel forces and the inclination of the Russian government toward a peaceful solution, the chances for the return of normal life in Chechnya have not been greater since the conflict began.

Notes

¹ The question of whether or not Russia’s perception is correct is not examined.

² This historical overview follows mainly John B. Dunlop, *Russia confronts Chechnya. Roots of Separatist Conflict*. (Cambridge, UK: Cambridge University Press, 1998).

³ L. Grau and J. Kipp, “Chechen Nationalism and the Tragedy of the Struggle for Independence.” *Foreign Military Studies Office*, 22 October 2002, <<http://call.army.mil/finso/finsopubs/ISSUES/chechnatism.htm>>

⁴ Marie Bennigsen, “Chechnia: Political Developments and Strategic Implications for the North Caucasus,” *Central Asian Survey* 18 (1999): 537-538.

⁵ Emil Pain, “Understanding the Conflict in Chechnya,” *Ethnic Conflict and Russian Intervention in the Caucasus*, ed. Institute on Global Conflict and Coopera-

tion, August 1995, *Columbia International Affairs Online*, <<http://www.ciaonet.org/wps/wef02/>>

⁶ "Economy: Regional Trends, from Country Profile Russia," *The Economist Intelligence Unit*, <<http://db.eiu.com/>>

⁷ Carlotta Gall and Thomas de Waal, *Chechnya. A Small Victorious War* (London: Pan Original, 1997), 143.

⁸ Boris Yeltsin, *Midnight Diaries* (New York: Public Affairs, 2000), 58-59.

⁹ Anatol Lieven, *Chechnya: Tombstone of Russian Power* (New Haven: Yale University Press, 1998), 145.

¹⁰ Timothy L Thomas, "A Tale of Two Theaters: Russian Actions in Chechnya in 1994 and 1999." *Foreign Military Studies Office*, September 2000, <<http://call.army.mil/fmso/fmsopubs/ISSUES/chechtale.htm>>

¹¹ Jodi Koehn, "The North Caucasus Conflict and Its Implications for Russia," from the lecture by Mikhail Alexseev, "The Current Crisis in Dagestan and Chechnya: Will the Federation Emerge Intact?," Kennan Institute of the Woodrow Wilson International Center for Scholars, Washington, D.C., November 18, 1999, <<http://www.amina.com/article/nocauru.html>>

¹² Edward W. Walker, "Dagestan and the Stability of Instability in the North Caucasus," in *Russia in the New Century: Stability or Disorder?* (Boulder, Colorado: Westview Press, 2001), 328.

¹³ Bennigsen, 555-556.

¹⁴ Georgi Derluguian, "Che Guevaras in Turbans," *New Left Review* 1/237 (1999): 6.

¹⁵ Bennigsen, 556.

¹⁶ Energy Information Administration, "Caspian Sea Region: Regional Conflicts," July 2002, <<http://www.eia.doe.gov/emeu/cabs/caspconf.html>>

¹⁷ *Kommersant-Vlast*, June 30, 1998.

¹⁸ Valery Tishkov, *Society in Armed Conflict: Ethnography of the Chechen War*, (Moscow: Nauka, 2001). English version at *Center for Defense Information. Johnson's Russia List*, Research and Analytical Supplement, no. 6191, 18 April 2002, <<http://www.cdi.org/russia/johnson/6191.cfm>>

¹⁹ For example, Russian General Gennady Shpigun was kidnapped by Chechen terrorists at the Grozny airport in March 1999. The kidnappers demanded a ransom of \$15 million. His body was found in Chechnya in March 2000. For general information on the kidnapping business in the interwar years, see: Valery Tishkov, "Kidnapping and the Origins of the Second War," *Johnson's Russia List*, 2000, <<http://www.cdi.org/russia/johnson/6191-5.cfm>>

²⁰ Derluguian, 6-7.

²¹ The only recent examples of peaceful secession that do not fall under decolonialization are the case of Czech Republic and Slovakia, and that of Eritrea and Ethiopia.

²² This argument should not be confused with the domino theory. The domino effect refers to Russia's fear that by letting Chechnya secede, other republics might

follow suit. Russia is not concerned about losing *more* territory in the future; Russia simply will not let go of *any* territory to begin with.

²³ Dunlop, 184.

²⁴ Dunlop, 154.

²⁵ Dunlop, 158.

²⁶ *Moscow News*, December 2-8, 1994, 1.

²⁷ *Moscow News*, 156.

²⁸ Dunlop, 161-163.

²⁹ Gall and de Waal, 152.

³⁰ Gall and de Waal, 156.

³¹ Publication provided by the *The Jamestown Foundation*, < http://www.jamestown.org/pubs/view/for_001_005_001.htm>

³² *The Jamestown Foundation*.

³³ Sebastian Smith, *Allah's Mountain. The Battle for Chechnya* (London: I.B. Tauris, 2001), 257.

³⁴ Matthew Evangelista, *The Chechen Wars: Will Russia Go the Way of the Soviet Union?* (Washington, DC: Brookings Institution Press, 2002), 56-59.

³⁵ Knabe, *Der Krieg in Tschetschenien und die Präsidentschaft Putins*, Bundesinstitut für ostwissenschaftliche Studien, Aktuelle Analysen, Nr. 16/ 2000, 22 February 2000, <http://www.swp-berlin.org/biost/analysen00/a2000_16.htm>, 2.

³⁶ Knabe. At the time of the interview Putin was campaigning for the Presidential elections.

³⁷ Evangelista, 61.

³⁸ Thomas.

³⁹ Olga Oliker, *Russia's Chechen Wars 1994-2000: Lessons from Urban Combat*. (Santa Monica, California: RAND Publications, 2001).

⁴⁰ Evangelista, 61.

⁴¹ Knabe, 3.

⁴² Smith, 255-257.

⁴³ Knabe, 3.

⁴⁴ Derluguian, 12.

⁴⁵ "Russia Probes Fate of 1998 IMF Loan," *Associated Press Online*, April 21, 2002.

⁴⁶ David Satter, "The Shadow of Ryazan: Who Was Behind the Strange Russian Apartment Bombings in September 1999?" The Johns Hopkins University School of Advanced International Studies, April 19, 2002, <<http://www.sais-jhu.edu/depts/res/newsite/papers/Satter%20edited%20final.pdf>>, 4.

⁴⁷ "9/99: Bloody September," February 5, 2003, <<http://eng.terror99.ru/explosions/index.html>>

⁴⁸ Pain.

⁴⁹ Satter, 13.

⁵⁰ Satter, 9.

⁵¹ Satter, 7.

⁵² Pain.

⁵³ Andrew Jack and Rafael Behr, "Putin Claims Strong Support in Chechnya Vote," *The Financial Times*, March 25, 2003.

⁵⁴ Michael Wines, "Chechens Back Ties to Russia in New Charter," *The New York Times*, March 25, 2003.

⁵⁵ Wines.

THE UNITED NATIONS AND NATO: BEYOND THE KOSOVO LEGACY

By Christophe Dongmo

In March 1999, political violence and ethnic cleansing in the Balkan states prompted the North Atlantic Treaty Organization to declare war for the first time in its fifty-year history. This historic event, which included the bombing of the Kosovo region and the prosecution of Serbian leader Slobodan Milosovic under the newly formed International Criminal Tribunal for the Former Yugoslavia,¹ created new challenges for political analysts. Specifically, from a transatlantic perspective, the conflict created a sort of *terra cognita*. Events unfolded in the context of a confused international community, an undecided and uncoordinated Europe and an indecisive United Nations. The latter's failed attempts to manage the conflict presented NATO with a serious dilemma: take action in defense of human justice and dignity or leave the United Nations to contemplate lengthy diplomatic avenues which did not guarantee peace and could prolong human rights atrocities.

From a broader perspective, the Kosovo crisis also raised many conceptual challenges that could redefine our understanding of international affairs and the global order. It was a defining mo-

ment in post-Cold War history, potentially signaling a restructuring of the pattern of international relations through the reorganization of the relationships between regional security organizations and the United Nations, between major Eastern and Western powers, between friends and allies within those camps and between the use of force and diplomacy.² As the current Iraqi conflict clearly demonstrates, such questions have taken on a new relevance today, not only for the North Atlantic alliance, but also for the entire international community.³

In addition, the international community's experience in Kosovo provides sufficient ground for the assessment of the Security Council's traditional role in international peace and security matters. Within the Alliance itself, the possible implications of Kosovo on other future political and strategic interventions deserve further investigation. Beside freezing the traditional bipolar systems that had dominated international politics since the fall of the Communism in Eastern Europe, the Kosovo conflict also highlights the potential limits of the Security Council veto system. It is questionable whether the Security Council can be relied upon as the proper structure for the settlement of events threatening international peace and security. In short, the normative, operational, and structural questions raised by the Kosovo operation are likely to have long-term implications for the understanding of international politics, and for the ability of the transatlantic alliance to maintain and secure international peace and security.

This essay will analyze the intrinsic and extrinsic manifestations of the Kosovo intervention in order to further a critical understanding of the political and strategic significances of the conflict, both for NATO and for other "outside partners," such as the United Nations. The first section provides a brief overview of the United Nations-NATO relationship and assesses the limits of the collective security system. Thereafter, the paper analyzes the normative justifications of the Kosovo intervention – be they humanitarian or otherwise – and the search for credibility or regional stability. Finally, the paper considers the policy and strategy implications of Kosovo on NATO's internal and external political orientation.

SIDELINING THE SECURITY COUNCIL: LIMITS OF THE COLLECTIVE SECURITY SYSTEM

The Chapter VII provisions of the Security Council's mandate have, for a long time, remained a dead letter. The Kosovo crisis brought these provisions' practical relevance to the forefront of public debate.

As far as NATO intervention in Kosovo is concerned, the crucial issue concerned the legality of the intervention as defined in the framework of NATO's constitutional powers and mandate, which refer to the United Nations Charter. (Interestingly, whether NATO ought or ought not to have intervened seems a secondary issue, as many analysts denounced the human atrocities in Kosovo at the time.) The NATO treaty specifically recognizes the primary responsibility of the Security Council for the maintenance of international peace and security. In its Preamble, all parties reaffirm their faith in the purposes and principles of the Charter. In Article 1, they accept their solemn Charter obligations; notably, to settle disputes through peaceful means and to refrain from the use of force in any manner that runs counter to the purposes of the United Nations.⁴

Unlike the NATO's intervention in Bosnia-Herzegovina, which was in accordance with the United Nations Charter and the provisions of the Washington Treaty, the Kosovo intervention contained several areas of legal contention.⁵ From the perspectives of international law and international relations, the legal or institutional basis of the NATO Activation Orders (ACTORDs) of mid-October 1998, which laid the foundation of the "Operation Allied Forces," is still not clear. At the outset, even NATO member states themselves were not able to agree whether military intervention without U.N. approval was backed by international law.⁶ As events unfolded, NATO had to admit its inability to arrive at an official joint legal basis for the ACTORDs. It also had to end its "sub-contractor status" vis-à-vis the United Nations, although such status was never formally accepted by the Alliance.⁷

Prominent arguments were also presented for the preservation of NATO's freedom of action. The main concern centered on NATO's

ability to bypass the United Nations and complete the task that the Security Council could not complete because of a veto threat. In the short run therefore, the United Nations found itself sidelined and supplanted by NATO. Although NATO had never sought – nor obtained – a U.N. sanction for a bombing operation in Kosovo, there remained a sense of compelling obligation for European regional peace and security structures to intervene in order to avoid the recurrence of massive losses of human life. Additional pro-NATO arguments concluded that NATO should not let its activities and areas of attention be prescribed/proscribed by the Security Council, or – in other words – by Russia's and China's threat to veto the proposed military intervention.⁸

During the Kosovo operation, the concept of “international community” gained currency, mainly because the United Nation's blessing could not be obtained and NATO's institutional authority was considered inadequate. Although the United Nations recognized the Kosovo conflict as constituting a “threat to international peace and security,”⁹ veto threats prevented formal humanitarian intervention. However, further developments led to a shift of opinion within U.N. circles. As the crisis grew in intensity and more human losses were accounted for, the legacy of the operation became more apparent. As one U.N. press release put it, “there are times when the use of force may be legitimate in the pursuit of peace.”¹⁰ This may explain why the United Nations later acknowledged the “moral imperatives,” from which flowed the legal justification of the Kosovo campaign. Besides adopting a Resolution for such purposes,¹¹ it set up the international criminal tribunal in order to judge and prosecute war crimes and human rights violations committed in the territory of the former Yugoslavia.

In light of this conflict of interests, one could argue that NATO is not prepared to abandon its prerogative to act alone when its vital interests are at stake.¹² This dims the prospect of a world order based on the strict respect of Security Council veto. The overriding public interpretation of the intervention was that force had been put to the service of law.¹³ Kosovo demonstrates the limits of the system of collective security, in which a social contract between member states

allows those states to forego their sovereign right to fight war, and grants that authority to the Security Council. The very moment this contract goes unheeded because one of the members exerts its veto right, the whole system is in danger. This is exactly what happened as NATO prepared for intervention in Kosovo.

In this partial analysis, one should not underestimate the dangers of veto rights and lack of effective action at the level of the United Nations. The transatlantic framework does not replace the United Nations international peace and security machinery, but functions outside of the Security Council and its veto system if and when that veto machinery breaks down.¹⁴

UNDERSTANDING THE INTERVENTION: HUMANITARIAN JUSTICE AND LEGITIMATE INTEREST

The Kosovo intervention was framed around three major themes: humanitarian concern, regional stability, and NATO's credibility as the cornerstone of transatlantic defense and security. Within this framework, and given the human rights implications of the crisis, there was a clear interest for the Alliance to act. In late January 1998, the sixteen ambassadors of the NATO countries devoted their weekly meeting at the NATO headquarters in Brussels to the Kosovo crisis, out of concern for the "potentially explosive" situation in the area.¹⁵ The discussions were re-opened in early March of the same year, when the NATO ambassadors observed:

"NATO and the international community have a legitimate interest in developments in Kosovo, inter alia because of their impact on the stability of the whole region, which is of concern to the whole Alliance".¹⁶

This reference to "legitimate interest" may have grounded or motivated the urgency of the NATO military intervention. NATO's concern for the potential explosive growing conflict was related to the fear of a possible spill-over to neighboring countries, such as Albania and Macedonia, as well as to the potentially negative consequences for the peace implementation process in Bosnia and

Herzegovina.

Both the United Kingdom¹⁷ and the United States emphasized the humanitarian aspects of the crisis. The United States, in particular, had a fundamental interest in peace and stability in Southern Europe, which encouraged the strengthening of those European peace-keeping institutions.¹⁸ U.S. foreign policy at the time was driven by Secretary of State Madeleine Albright, who managed to convince a distracted U.S. political and legislative class to support the threat and eventual use of force in Kosovo.

From the outset, Albright firmly opposed barbaric acts of ethnic cleansing¹⁹ and seemed driven by a desire to prevent genocide in the heart of Europe. One of the more vocal supporters of “assertive multilateralism”²⁰ and a principled foreign policy, she often pushed for more assertive responses to complex humanitarian emergencies.²¹ In the end, she managed to demonstrate to the international community the U.S.’s fundamental interests in preserving Bosnia’s progress toward peace, which was likely to be seriously jeopardized by renewed violence in Kosovo.

Because regional conflict would undermine NATO’s credibility as guarantor of peace and stability in Europe, developing a real democracy in Yugoslavia was a crucial step of the whole process. The intervention also found support both in U.S. military²² and political circles.²³ Although President Bill Clinton had remained aloof from U.S. foreign policy making during most of the Kosovo conflict,²⁴ his official speech on March 24, 1999, the night the bombings began, clearly defined his goals for the conflict. He launched a pressing call for unity between the United States and its allies who, in his words, were obliged to “act to protect thousands of innocent people in Kosovo from a mounting military offensive...to prevent a wider war, to defuse a powder keg at the heart of Europe that has exploded twice before in this century with catastrophic results.”²⁵

This declaration is best analyzed from a historical perspective. After fighting numerous political battles to expand NATO in 1998, the Alliance could not afford to ignore a political crisis on its doorstep, especially in the Balkans. The bitter experience of Bosnia-Herzegovina was still fresh in the public’s mind and NATO leaders

clearly did not want to repeat their incompetent performance, replete with transatlantic snipping and internal dissension.²⁶

Yet questions remained: Were humanitarian, stability and credibility arguments truly the sole motivations for intervention? Were there any other 'hidden objectives' justifying the intervention? There may be little reason to doubt NATO's well-founded fear for regional stability and for its credibility. However, to the extent that the crisis risked the production of a large-scale humanitarian crisis, including widespread violence and hundreds of thousands of forcibly displaced persons, these concerns were legitimate. In the final analysis, it is the contention of this writer that though there were either moral, humanitarian and political imperatives justifying the intervention, there is reason to believe that the humanitarian character of the intervention superseded all other political or strategic considerations.²⁷ From the same perspective, it is worth mentioning that Kosovo was fought to "enlarge" an international organization; that is, to restructure or adapt its policies in order to make NATO more responsive to crucial challenges so that the organization could recover and take responsibilities as the "eldest" peace and security organization in the transatlantic arena.

POST-COLD WAR STRATEGIC THOUGHT: THE POLITICAL DEBATE AND THE NEW STRATEGIC CONCEPT

The Strategic Concept is nothing less than the redefinition of the central role of NATO in international (and European) affairs.²⁸ Although such new duties may pose special requirements, as with the Kosovo intervention, these new roles must be viewed through the historical perspective of post-Cold War Alliance structures and procedures.

The Kosovo operation was the "first visible" challenge to the transatlantic union since the fall of the Soviet Union. The fall of the communist regimes in the 1990s meant that the monolithic, massive and potentially immediate threat, which was the principal concern of the Alliance in its first forty years, had disappeared."²⁹ The elimination of the Soviet threat opened up new areas of responsibility and

action for most regional and international arrangements, with the goals to underpin new humanitarian, human rights, peace, and security challenges. In the absence of any overarching and conflictual ideological divisions, the battle shifted from Cold War security concerns to the creation and strengthening of the bases of cooperative frameworks between various regional peace and security providers. As a result of such ideological motives, NATO transformed itself from an organization concerned mainly with collective defense and the deterrence of the Soviet threat into an actor in European security and peacekeeping efforts.

NATO leaders in 1991 took the opportunity to reemphasize NATO's defensive nature, stressing that "none of the weapons will ever be used except in self-defense."³⁰ In the same vein, the Alliance proposed a Joint Declaration with the former signatories of the Warsaw Pact reaffirming their "intention to refrain from the threat of the use of force against the territorial integrity or political independence of any state."³¹ NATO then showed interest in investing additional military resources in peacekeeping and humanitarian interventions. In October 1992, the Supreme Headquarters Allied Forces (SHAPE), NATO's main military headquarters in Europe, started to draft the "NATO Military Planning for Peace Support Operations," MC 327, which was adopted by NATO's Military Committee the following year.³² The document defined "peace support" operations as including conflict prevention activities, humanitarian aid missions and peace building, using military means to restore peace in an area of conflict under Chapter VII of the United Nations Charter."³³

The search for a new Strategic Concept within NATO happened against the backdrop of intensified European integration. However, the impact of earlier European unification drives on NATO's policy changes remains unclear. After a decade of rhetoric, E.U. member-states finally started to organize their defense without recourse to U.S. military and leadership resources. At the 1999 Helsinki summit, member states laid the foundations of their new European and Security Defense Policy (ESDP). The summit laid the groundwork for a basic military crisis management mechanism, aimed at strengthening the European Union's foreign and security policies in

and around Europe. The European Union's "headline goal" for improved military capabilities was also set at this time. Deployable within 60 days, the European Union declared that a 50,000 to 60,000 soldier force should be sustainable for at least a year of field operations.

Assembling a "European army" is likely to be a step toward a European federation that will not only have the structures in place to speak with one voice, but that will also set political agendas. From a transatlantic perspective, this means that the E.U. defense organization and NATO could act cooperatively. Lord Robertson, NATO Secretary General and former British Secretary of State for Defense, claims that "building a stronger European role in security matters has become necessary to a healthy transatlantic relationship,"³⁴ thus suggesting that a strong European defense will keep NATO politically afloat. Offering an alternative to NATO, E.U. defense initiatives not only solidify Europe's still-shaky identity, but also encourage the formulation of European foreign, security and defense policies that are bound to be, at times, at odds with United States. Only if the two partners have an identity of perceptions and policies will NATO be the preferred framework for action.

EUROPEAN PARTNERSHIP: PERSPECTIVES AND LIMITS OF A 2010 COOPERATION AGENDA

The way to a partnership of equals between the European Union and NATO should be marked by a new "Transatlantic Agenda 2010," which must be based on the deepening and broadening of the European integration process, including security policy. This Agenda should project the further evolution of European unification in the coming decades into the transatlantic context. Its goals should be to formulate a set of mutual commitments for the entire spectrum of economic, political and security relationships.³⁵ The Transatlantic Agenda 2010 should then build on a successful accomplishment of the initial European Community Agenda of 2010, which has been drawn up by E.C. summits, culminating with the Helsinki heads-of-state meeting of December 1999.

The transatlantic dialogue on security policy is a complex issue that must be tackled in a constructive manner. This must be done around three pillars: Europeanisation, emancipation, and efficiency. Firstly, europeanisation addresses the need for a clear identification of the currently nebulous European Security and Development Policy (ESDP). Secondly, emancipation calls for the ESDP to create capabilities for autonomous military and civilian crisis management by the European Union for use in conflicts where NATO as a whole is not engaged. Finally, efficiency will reinforce the overall security and defense capabilities through the strengthening of the European pillar within the Atlantic alliance.

This analysis is premised on the idea that the Europeans' aim is not to build up an independent European defense force without the United States, but to reinforce the Atlantic alliance by accepting more political and military responsibility. Within the transatlantic dialogue, it should be clearly stated that the aim is not a common European defense policy, but a common European security policy. The consequences are twofold: the U.S. side must accept that a greater military contribution by the European Union will give the union a greater political say; Europeans should be alternatively prepared to take on more responsibility by providing the corresponding logistical, military, and budgetary support to make up the new configuration – something, which may be neither desirable nor affordable for most European NATO members.³⁶

One may, therefore, want to question the feasibility of this partnership, for the defense-capabilities gap that divides the United States from its European allies is real, and it matters. The gap can be viewed as aggregate of multiple gaps relating to the organization and conduct of large-scale military expeditions. Large transatlantic disparities in the ability to mount such operations became painfully obvious during the Kosovo campaign and spurred commitments on both sides of the Atlantic to narrow the gap. Western European states discovered that the United States will not take the European Union seriously as long as the latter lacks substantial military clout. Lord Robertson, once more, observes:

“The Kosovo campaign demonstrated just how dependent the European allies had become on U.S. military capabilities. From precision-guided weapons and all-weather aircraft to ground troops that can get to the crisis quickly and then stay there with adequate logistical support, the European Allies did not have enough of the right stuff. On paper, Europe has two million men and women under arms – more than the United States. But despite those two million soldiers, it was a struggle to come up with 40,000 troops to deploy as peacekeepers in the Balkans. Something is wrong, and Europe knows it”.³⁷

This suggests that efforts to build either a European Security and Defense Identity (ESDI) in NATO or a common European Security and Defense Policy (CESDP) in the European Union have been pursued under various labels during the past half-century. However, it is unlikely that such common projects have turned the Europeans into unavoidable partners for the United States. Some fundamental and basic obstacles have proven difficult to overcome: an absence of a shared vision of strategic requirements and (on the part of several European governments) a willingness to reduce defense spending to the detriment of other social and welfare priorities. For these reasons, the military capabilities gap can be interpreted as one of the driving factors behind mounting divergences in the approach to cross-border conflicts.

Since Kosovo, two major crises have occurred to test the willingness of the NATO-European Community states to respond together as a team to threats to international peace and security outside the Atlantic Alliance: the 2001 U.S. intervention in Afghanistan to topple the Taliban, and the U.S.-led coalition in the March 2003 war against Iraq. The Afghan and Iraqi crises have presented a different challenge to the conceptions and decision-making patterns left over from the Cold War concerning the response to out-of-area threats to international peace and security. These crises were decisive moments for the Alliance to cooperate for a negotiated military or diplomatic action, alongside the United Nations Security Council.

These developments have also led to tension and disagreement with the United States over the future path of the peace process, as well as on the measures required to move the process for-

ward. Without significant progress from today's situation, transatlantic differences in cross-border conflicts will remain detrimental to the unity and interests of the Transatlantic Alliance. Divisions among the allies not only reduce the likely effectiveness of each side's policies, but also undermine the cohesion of the Atlantic alliance at a time when its unity is no longer guaranteed by a common threat.³⁸

It is clear that elaborate procedures and common stance have remained hollow in the absence of joint decisions and commitments to joint military action. The future of NATO is, therefore, a matter of concern. If the United States comes to see Europeans as free-riding appeasers of states that threaten the global expansion of U.S. economic and strategic interests – and Europeans see Americans as simplistic crusaders trying to assert unilateral authority over their allies, even against the will of the international community – then NATO's unity and future will be threatened. Many U.S. analysts and officials see the organization as a potentially anachronistic body unless it begins to address *d'un commun accord* peace and security threats beyond Europe's borders. Should the Alliance succeed in pursuing common political, economic and military strategies, it will be a strong, credible and respected force in international politics. If it fails to do so, it will wither.³⁹

IN LIEU OF CONCLUSION: HARMONIZING POSITIONS IN INTERNATIONAL CONFLICTS

The Kosovo intervention provides clear evidence of the existing structural deficiencies that are likely to hamper the proper functioning of the United Nations Security Council in situations of international conflicts. It poignantly illustrates the implications of veto rights in humanitarian intervention situations. Besides calling upon the Security Council to be more responsive within its Chapter VII powers, Kosovo laid the foundations for future concerted actions among regional powers. It also highlighted the idea that, should the veto rights prevent U.N. action, some entities (such as NATO) can reinterpret and implement, on a case-by-case basis, the United Nation's prerogatives to sanction the use of force in matters threat-

ening international peace and security.

Two major criticisms have been leveled against NATO intervention in Kosovo. First, Kosovo seems to have sealed Europe's dependence on the United States for peace and security matters; and secondly, the humanitarian basis of the intervention has been undermined by the human suffering it has caused, such as collateral damage, refugee flows and destroyed infrastructure. Although the humanitarian dimension may have, to a great extent, justified the intervention, it is clear that it could not be the only or even the dominant driving factor to justify the intervention. In any event, close analyses of the operations suggest that Kosovo was driven primarily by concerns over NATO's credibility and relevance, as well as by the concern for regional stability in the Balkans.

From a political strategy perspective, Kosovo has been a major step for the redefinition or reorientation of NATO's policy from that of collective defense to one of a peace enforcement mechanism. As NATO steps into this new role, Alliance debates on topical issues such as NATO's future relationships with the United Nations, NATO enlargement, the development of a European Security and Defense Identity and the future of arms controls should be taken seriously. Only cooperative approaches are likely to foster the establishment of the desired 'peace haven' in the transatlantic area.

Another important lesson of the Kosovo conflict is the power of norms in justifying the use of force. If the international community shares common norms, and if solidarity can override strategic thinking, then the Kosovo conflict may be seen as a harbinger of the emerging international society. Such an international society must be a legal community and would inculcate a sense of global responsibility in international citizens, possibly through international organizations such as the United Nations.⁴⁰ The international community must be more responsive and the Security Council must not use veto rights as instruments of ideological and political prosperity. If multilateralism is the grounds upon which an international society based on human dignity, justice, and equality rests, then it is the contention of this paper that the world's leading powers must refer to the guardian of such values, the United Nations. As the current

Iraqi crisis shows, the Security Council must be the proper forum for the adjudication and resolution of international conflicts. However, it remains to be seen how internal divergences and U.S. unilateralism will affect security and peace building mechanisms alongside the United Nations.

Notes

¹ UN Security Resolution 827 of 25 May 1993, 32 ILM 1203.

² A. Schnabel and R. Thakur, "Kosovo, The Changing Contours of World Politics, and the Challenge of World Order" in *Kosovo and the Challenges of Humanitarian Intervention Selective Indignation, Collective Action, and International Citizenship*, eds. A. Schnabel and R. Thakur (Tokyo: The United Nations University Press, 2000), 1.

³ The Bush doctrine of pre-emptive strikes without a nod from the United Nations; this opens a new chapter of the role of the United Nations and the future of multilateralism in modern geo-politics.

⁴ NATO Treaty, Washington D.C., April 4, 1999, <<http://www.nato.int>>

⁵ Of the three military units deployed (Observer Mission, Extraction Force, KFOR), The Observer Mission was the only one authorized by the U.N. Sec. Res. 1203 (1998) of 24 October 1998.

⁶ *Atlantic News*, 9 October 1998.

⁷ D. Leurdijk and D. Zandee, *Kosovo: From Crisis to Crisis* (Aldershot: Ashgate Publishing, Ltd, 2001), 51.

⁸ Russia and China were bitterly opposed to NATO's handling of the Kosovo crisis. In the wake of NATO's actions in Kosovo, they froze relations with the United States and other NATO members.

⁹ U.N. Security Resolution. 1199 of 23 September 1998, and U.N. Security Resolution 1203 of 24 October 1998.

¹⁰ U.N. Press Release SG/SM/6938, 24 March 1999<<http://www.un.org/Docs/SG/sgsm.htm>>

¹¹ U.N. Security Resolution 1244 of 10 June 1999; U.N. Security Resolution 1256 of 3 August 1999, and the general principles on a political solution to the Kosovo crisis adopted on 6 May 1999 (S/1999/516).

¹² Leurdijk and Zandee, 7, 51.

¹³ A. Schnabel and R. Thakur, 13.

¹⁴ R. H. Heindel, T. V. Kalijarvi and F. O. Wilcox, "The North Atlantic Treaty in the United States Senate" *AJIL* 43 (1949): 633-638.

¹⁵ Before that, on 24 September 1997, the Contact Group, the supervisor of the implementation of the "Dayton Peace Agreement," for the very first time dis-

cussed the situation in Kosovo as a separate issue, and warned of the outbreak of violence in Kosovo, but she also insisted on a peaceful dialogue on Kosovo's status.

¹⁶ *Atlantic News*, 6 March 1998, and *International Herald Tribune*, 28 April 1998.

¹⁷ Statement by the British Secretary of State, 6 March 1998, quoted by Leurdijk & Zandee, 7, 29.

¹⁸ "Remarks by Secretary of State Madeleine K. Albright at the US Institute for Peace," 4 February 1999, <www.usip.org/oc/events/Albright_020499.html>

¹⁹ Note that Madeleine Albright has been born in Czechoslovakia, and her immediate family had fled Hitler's invasion, although many of her extended family had fallen victim to the Nazi death camps. M. Dobbs, *Madeleine Albright* (New York: Henry Holt & Co., 1999).

²⁰ This refers to a shift that occurred in U.S. foreign policy after Bush left office soon after initiating Somalia's "Restore Hope." Initially, these guidelines were expected to reflect Clinton's "assertive multilateralism," a phrase meant to capture the new administration's strong support for increased support of U.N. operations. But as the policymaking process went underway, Congress grew increasingly uncomfortable with the unexpected developments of the Somalia intervention. Such congressional pressures led to the adoption of the Presidential Decision Directive 25 (PDD 25), which turned out to be a retreat from the initial project.

²¹ Although she worked hand in hand with Vice President Gore and sometimes National Security Advisor Lake, many observers viewed the Kosovo campaign as "Madeleine's War". R.C. DiPrizio, *U.S. Interventions from Northern Iraq to Kosovo: Armed Humanitarians* (Baltimore and London: The Johns Hopkins University Press, 2002), 143.

²² "Prepared Statement of the Honorable Walter B. Slocombe Under-Secretary of Defense for Policy before the House Armed Services Committee Hearing on the Balkans," Washington DC, 17 March 1999, <<http://www.house.gov/hasc/testimony/106thcongress/99-03-17slocombe.htm>>

²³ Ambassador Holdbrooke, *International Herald Tribune*, 9 November 1998.

²⁴ When the Kosovo crisis broke onto the international scene in early 1998, President Clinton and his political aides were consumed with the Monica Lewinsky scandal.

²⁵ 24 March 1999, <<http://www.pub.whitehouse.gov/uri-res/I2R?urn:pdi://oma.eop.gov.us/1999/3/25/1.text.1>>

²⁶ R. C. DiPrizio, 21-143.

²⁷ See 25 above.

²⁸ "The Alliance's Strategic Concept," *NAC – S 65* (99).

²⁹ NATO November 1991 Summit of Heads of States and Governments in Rome, "The Alliance New Strategic Concept," Rome, 7 – 8 November 1991, <<http://www.nato.int/docu/comm/49-95/c9111007a.htm>>

³⁰ NATO Heads of States and Government, "London Declaration on a Transformed North Atlantic Alliance," London, 5 – 6 July 1990, <www.nato.int/docu/comm/49-95/c900706a.htm>

³¹ "London Declaration."

³² Note, however, that the new doctrine for peace support operations was controversial within the Alliance, with the result that the North Atlantic Council (NAC), NATO's highest decision making body, was never able to approve MC 327. France (with the tacit approval of some other European allies), who is a member of the NAC but not a member of NATO's Integrated Military Structure, delayed the approval.

³³ P. Chilton, O. Nassauer, Dan Plesch, and J. Patten (Whitaker), "NATO, Peace-keeping and the United Nations," *BASIC* 94.1 (1994).

³⁴ NATO Secretary General Lord Robertson, "Turkey and European Security and Defence Identity," Istanbul, 23 November 2000.

³⁵ G. Burghardt, "A Transatlantic Agenda for 2010," *International Politik – Transatlantic Edition* 1 (2000): 32.

³⁶ G. Burghardt, 32-33.

³⁷ Lord Robertson, "Rebalancing NATO for a Strong Future," Brussels, 31 January 2000, <www.nato.int>

³⁸ Lord Robertson, "Rebalancing," 10.

³⁹ Ronald D. Asmus, Robert Blackwell, and F. Stephen Larrabee, "Can NATO Survive?" *Washington Quarterly* 19 (1996): 79-101; David C. Gompert and F. Stephen Larrabee, *America and Europe: A Partnership for a New Era* (Cambridge: Cambridge University Press, 1997).

⁴⁰ J. M. Coicaud, "Solidarity versus Geostrategy: Kosovo and the Dilemmas of International Democratic Culture," in *Kosovo and the Challenges of Humanitarian Intervention*, 463 ff.

PROMOTING STABILITY: THE LENDER OF LAST RESORT THROUGH HISTORY

By Gregor Feige

“There have been three great inventions since the beginning of time: fire, the wheel, and central banking.”

- American Humorist Will Rogers

The global integration of financial markets in the final three decades of the 20th century bares a striking resemblance to the period of internationalization that took place under the gold standard from the 1870s to the outbreak of World War I. Integration of markets, specifically capital markets, during both eras parallel a proliferation of international financial crises and underscore the need for a lender of last resort to promote stability in the international financial structure.

This paper analyzes the history, theory and practice of central banks and other institutions as lenders of last resort in domestic and international financial crises. It thereby shows the precarious nature of the international financial system and highlights the continued relevance of developing a sound, institutionalized organization beyond the typically perfunctory roles played today by the Inter-

national Monetary Fund and the Bank for International Settlements.

The first step is to investigate the emergence of the phenomenon of central banking in Europe and the United States, paying particular attention to the development and performance of the Bank of England and the Federal Reserve System in the United States. This Anglo-American bias is more a function of history than anything else, since the United Kingdom and the United States have been the two states most capable of acting as an international lender of last resort during the period since the rise of central banking in the 19th century until the end of World War II.

In addition, a brief discussion of how the lender of last resort functions domestically in other European states yields valuable lessons regarding the operation of central banks and the practicality and efficacy of central banks as lenders of last resort. The theoretical underpinnings of a lender of last resort and an exploration of the implementation of this function at the domestic and international level along with an investigation of its greatest failures generates instructive lessons as to how the current global economy can avoid the potential disaster of a world financial meltdown like that of the 1930s.

For the purposes of this paper, an institution can be seen as a lender of last resort if, in a situation where the market for a given financial instrument, typically money, stocks or bonds, has become sufficiently unstable as to create a run on financial holdings and therefore a liquidity crunch, the institution pumps liquidity back into the market by way of loans to financial institutions that act to shore up the financial system and avert or quell the financial panic.

ORIGINS OF CENTRAL BANKING

While the development of commercial banking, both during antiquity and again in the Renaissance is clearly associated with the Italian peninsula, first under the Romans and later in the grand city-states of Venice and Genoa and in the Po Valley,¹ the origins of central banking belong to northern Europe. The Sveriges Riksbank, which evolved into the National Bank of Sweden was founded in 1656 and

was the first bank to issue true banknotes.² The Riksbank did not entirely fit the modern conception of a central bank. In fact, “like other early central banks a name, incidentally, not applied to them at the time, the Riksbank was simply a public bank with a special relationship to the state...”³ That is, “...the Riksbank evolved, like most early forerunners of central banks, as a commercial bank with the government its biggest customer,”⁴ fairly humble beginnings and most certainly a far cry from the current emphasis placed on independent central banking.

The Bank of England was in the words of American economist John Kenneth Galbraith, “...in all respects to money as St. Peter’s is to the Faith. And the reputation is deserved, for most of the art as well as much of the mystery associated with the management of money originated there. The pride of other central banks has been either in their faithful imitation of the Bank of England or in the small variations from its method which were thought to show originality of mind or culture.”⁵ Like most other central banks, the Bank of England was established out of necessity rather than high-minded economic theory. Ushered in along with the Glorious Revolution of William and Mary of Orange in 1688-89 was the “...establishment of a funded debt, the creation of the Bank of England, a recoinage of the nation’s money, and the emergence of an organized market for public as well as private securities.”⁶ The Bank of England was formally established by act of Parliament based on a design proposed by a Scotsman, William Paterson, in 1694.⁷ Of the passage of the Bank of England Act of 1694, as it came to be known, no less than the Bank’s designer described it as being done, “...solely to avoid embarrassment to the Government, which desperately needed the money it promised and could see no other way of getting it.”⁸

Despite its now divine reputation, the Bank of England endured a rather inauspicious youth. The new financial system established following the rise of William and Mary was subject to “...a number of financial crises, culminating in the famous South Sea Bubble of 1720.”⁹ Wild speculation in the various products and investment opportunities offered by the South Sea Co. led to a massive financial bubble, subsequent panic and eventual crash that has been

described as, "...the first of those catastrophic breakdowns which have from time to time bedeviled the financial markets to the modern world since they were first set up..."¹⁰ As a reaction to this financial meltdown, the Bubble Acts were enacted and in order to keep enterprises, similar to the South Sea Co., from encouraging the sort of financial speculation and mania that led to the panic and financial disaster of 1720.¹¹

The aftermath of the South Sea Bubble left the Bank in an insecure position; however, in the decades that followed the Bank of England gradually recovered from the stigma of the bubble and "...emerged as the guardian of the money supply as well as of the financial concerns of the government of England. Bank of England notes were readily and promptly redeemed in hard coin and, in consequence, were not presented for redemption..."¹² This eludes to one of the key elements of central banking: credibility. A bank note remains credible so long as holders of the currency believe that it either holds explicit value, by way of being readily redeemable for a precious metal, or the holder can reasonably assume it will be a stable means of exchange.

By the final quarter of the 18th century, the Bank of England had established itself as "...the nearly sole source of paper money in London, although the note issues of country banks lasted well into the following century."¹³ It was only "beginning about 1825, [that] the Bank of England recognized its responsibility to be 'lender of last resort,'"¹⁴ and not until the establishment of the Bank Charter Act of 1844, which forbade the establishment of new note issuing banks, that the Bank of England monopolized currency production.¹⁵ Ironically it was the suspension of the 1844 Act during crises in 1857 and 1866 that acted as a type of lender of last resort as it made an infusion of liquidity into the market possible.¹⁶ By the end of the 19th century, Britain was at the center of geopolitics and financial affairs and the Bank of England was firmly entrenched as guardian of the domestic fortunes of the worlds most advanced industrialized country as well as the informal supervisor of the international gold standard.

While not playing the preeminent role of the Bank of En-

gland, central banks in other European nations sprang up as part of the rapid political, social, and economic evolution of the continent during the 19th century. Napoleon Bonaparte established the Bank of France in 1800 in order to fulfill the financial needs of his military campaigns and the institution quickly established a monopoly on note issue and formed a close relationship with the state.¹⁷ The Bank of Spain was initially formed in 1782 to help finance the American War of Independence; although it was not until Jan. 28, 1856 that royal decree officially named it the Bank of Spain.¹⁸ The Dutch Central Bank became the sole issuer of bank notes in the Netherlands in 1814. Following the political unification of Italy in 1861, an attempt was made to establish a standard currency granting privileges to an existing bank rather than a central bank. This attempt was not fully successful, and the Bank of Italy was finally established as a public institution in 1893 through the merger of three other private banks.¹⁹ In Germany, the Reichsbank was created in 1875 as a result of the Prussian victory over France. In truth, the establishment of the Reichsbank was little more than a renaming of the Prussian State bank that had enjoyed a monopoly on note issue and acted as a *de facto* central bank prior to German unification.²⁰ This brief survey of the formation of various central banks in Europe is far from comprehensive, but it sufficiently illustrates the extent to which central banks were formed for pragmatic rather than theoretical economic reasons. The majority of European central banks were formed to tackle governmental fiscal shortfalls, most often associated with war, rather than in an attempt to ensure domestic financial stability or other lofty economic goals. It is also important to note that these banks typically conducted a large chunk of the banking business in the given country and therefore were able to directly influence monetary and credit conditions, unlike the Bank of England, which was forced to engage in more modern techniques, such as adjusting the discount rate, or the interest rate a central bank charges private banks in need of short term loans, in order to pursue a given monetary policy.

The Federal Reserve System of the United States was only formed in 1913, well after its European counterparts. This later de-

velopment is the function of a number of factors, not least of which is the general suspicion of banking held by the Founding Fathers. One should recall that the Constitution of the United States forbids both state and the federal government from issuing bank notes.²¹ This Constitutional ban was enforced rather selectively, flatly being ignored during the War of 1812 and the Civil War of the 1860s.²² The Constitutional provision was not entirely coherent with the goals of America's first Treasury Secretary, Alexander Hamilton. Hamilton aimed to develop a central bank in the United States akin to the Bank of England, for which he had a great deal of admiration. Hamilton represented a party known as the Federalists and saw the bank as another way to strengthen the role of the Federal government. Brought before the U.S. Congress in late 1790 the charter for the First Bank of the United States was passed and signed into law in early 1791 by President George Washington. The bank, established in Philadelphia, developed into a successful financial institution capable of exerting significant influence over the rapidly developing U.S. economy. The first twenty-year charter of the bank expired just prior to the War of 1812 and was not immediately renewed, however, in the years following the war it became clear that a Second Bank of the United States was necessary to ensure the financial stability of the young nation.

Chartered in 1816, the Second Bank of the United States, again seated in Philadelphia, was a larger and more ambitious version of its predecessor. While it suffered a fair share of misfortunes, it emerged as a success under the stewardship of Nicholas Biddle. By emphasizing the commercial side of the bank and increasing the number of branches, Biddle legitimized the bank and continued the practice of exercising discipline on state banks by sending notes back for redemption. Second Bank became the most significant note issuing institution in the country. Congress passed a bill re-chartering the bank in 1832, but President Andrew Jackson, a Democrat opposed to a strong federal government who had a general distaste for banking, vetoed the bill. The establishment of a central bank in the United States would have to wait another 81 years.²³

Signed into law in late 1913 by President Woodrow Wilson,

the Federal Reserve Act finally created a central bank in the United States. In reality the Federal Reserve System was not a single central bank, but rather a group of twelve banks, each bank representing one region of the country. When the Fed opened for business in late 1914, the Washington Board, the presidents of the various regional banks, was not given nearly the type of broad power now associated with Alan Greenspan, current Chairman of the Federal Reserve System. The Board was only able to persuade, not force, the various branches to change their discount rate, was unable to alter reserve requirements of the branches, and could not force the member banks to engage in open-market operations, the buying and selling of government securities as to influence macroeconomic conditions.²⁴ It was only with the Banking Act of 1935 that the Federal Reserve finally took on its more familiar powers as the Federal Open Market Committee was established and the general powers of the system were reinforced, while some functions formerly executed by the Department of Treasury were brought into the domain of the Fed.²⁵ By the outbreak of World War II, the Federal Reserve System came into maturity and stood alongside its European counterparts, all fulfilling the fundamental roles of a central bank: issuing bank notes, fixing the discount rate, supervising the banking system and exchange rates, engaging in open-market transactions and acting as the lender of last resort.

This brief sketch of the rise of central banking in Europe and the United States provides frame of reference for a theoretical discussion of the lender of last resort and an examination of the shortcomings of a global financial system regulated by national banks primarily designed to ensure domestic stability.

THEORETICAL UNDERPINNINGS OF THE LENDER OF LAST RESORT

The role of the lender of last resort during financial crises has been a source of theoretical economic debate since the late 18th century. Derived from the French *dernier ressort*, meaning the final legal jurisdiction beyond which no appeal is possible, the lender of last resort has become a key element of financial regulation and at-

tempts at ensuring domestic and international financial stability.²⁶ “Sir Francis Baring called attention to the concept in 1797; and Henry Thornton’s classic *Paper Credit* developed both the doctrine and its counterarguments in his discussion of the English country banks.”²⁷ Walter Bagehot, editor of the *Economist* newspaper in Great Britain, offered the most famous discussion of the lender of last resort function. Bagehot’s 1873 tract *Lombard Street* is considered by many to be *the* landmark analysis of the lender of last resort function as it relates to central banks. In his analysis of financial crises, Bagehot extracts two rules regarding the Bank of England as a lender of last resort in the case of an extreme financial crisis.

“First. That these loans should only be made at a very high rate of interest. This will operate as a heavy fine on unreasonable timidity, and will prevent the greatest number of applications by persons who do not require it. The rate should be raised early in the panic, so that the fine may be paid early; that no one may borrow out of idle precautions without paying well for it; that the Banking reserve may be protected as far as possible. Secondly. That at this rate these advances should be made on all good banking securities, and as largely as the public asks for them. The reason is plain. The object is to stay alarm, and nothing therefore should be done to cause alarm. But the way to cause alarm is to refuse some one who has good security to offer. The news of this will spread in an instant through all the money market at a moment of terror; no one can say exactly who carries it, but in half an hour it will be carried on all sides, and will intensify the terror everywhere.”²⁸

Bagehot’s contention is that in a situation of real financial crisis where the vast majority of the liquidity in the market is gone, it is the responsibility of the central bank to infuse liquidity into the system by freely offering loans to banks at a penalty rate on good collateral. The penalty rate is designed to help avoid the emergence of banks attempting to secure loans even if they are not truly in need merely as a type of safeguard. The goal of the loans is to shore up the financial system, which dissuades individuals from succumbing to their base fears and instincts and making a run on the bank. So long as the central bank can legitimately be expected to come to the aid of

commercial banks, the panic associated with a run on the banks tends toward zero.

In his now classic work *Manias, Panics and Crashes* Charles Kindleberger explains: "If, however, there is no authority to halt the disintermediation that comes with panics, with forced sales of commodities, securities, and other assets, and a scramble for the limited supply of money, the fallacy of composition takes command. Each participant in the market, in trying to save himself, helps ruin all."²⁹ Kindleberger is illustrating a standard collective action problem. Once there is even the slightest hint of a financial crisis, it is individually rational for each participant in the market to liquidate their assets and protect him or herself from any potential exposure to the crisis. This action in turn puts added strain on the market fueling the crisis, making it a type of self-fulfilling prophecy. The action is individually rational, but collectively irrational as it leads to the propagation of the financial crisis and destroys the market, which in the end benefits no one. It is the responsibility of the lender of last resort to calm the panic, rational or irrational, by offering loans to protect financial institutions thus ensuring the stability of the system writ large.

The most cutting argument against the intervention in financial crises contends that by acting as a lender of last resort produces a type of moral hazard that will actually make the financial system less stable in the long run. Moral hazard is a term used within the insurance industry to describe "the adverse effects, from the insurance company's point of view, that insurance may have on the insuree's behavior."³⁰ That is, if an individual or institution knows that it will be bailed out, it is more likely to engage in risky behavior because it knows ultimately it will be rescued and not be held fully responsible for its misdeeds. Kindleberger frames the situation in a slightly different manner: "The paradox is equivalent to the prisoner's dilemma. Central banks should act one way (lending freely) to halt the panic, but another (leaving the market to its own devices) to improve the chances of preventing future panics. Actuality inevitably dominates contingency. Today wins over tomorrow."³¹ In the end, Kindleberger argues that the lender of last resort will act to stop a financial crisis because the current panic is real and immediate,

while the potential for moral hazard is a problem that can be dealt with down the road.

The risks associated with moral hazard can be partially abrogated via the existence of legal regulation, private sector monitoring, self-regulation and imposing costs on institutions that make mistakes (penalty rate),³² however the risk of developing moral hazard is very much implicit in any lender of last resort action. In total, moral hazard must simply be accepted in a limited sense. It would not be possible to eliminate the potentiality for moral hazard while still acting as a lender of last resort, therefore moral hazard is something to control and deal with rather than attempt to eliminate absolutely.

THE LENDER OF LAST RESORT IN PRACTICE

A discussion of the lender of last resort in practice hinges on an important distinction between domestic and international lenders of last resort. In a domestic context the lender of last resort has historically been played by a central bank, although there are examples of financiers and other private entities playing the role at one point or another.³³ Bagehot's theory of a lender of last resort was formulated based on the Bank of England's internal actions to stabilize the British financial sector at different points during the middle of the 19th century, although he also identified the possibility of "external drain" and the need for central banks to take action in an international context.³⁴ The primary focus of lender of last resort functions was domestic in nature until international capital flows became sufficiently large during the late 19th century. Due to the potentially extreme volatility of international capital flows it became clear that an international lender of last resort was necessary to "...help mitigate the effects of this instability and, perhaps, the instability itself."³⁵

The period of economic globalization or, perhaps more accurately, internationalization that characterized the final quarter of the 19th century and the first fourteen years of the 20th century was based primarily on the maintenance of the international gold standard. The orthodox explanation of the functioning of the system is British econo-

mist David Hume's price-specie flow model.³⁶ The model warrants a brief explanation. If nation A begins experiencing a trade surplus, it receives an inflow of gold from country B to pay for the surplus goods country B receives, which in turn drives country A's domestic prices up as the quantity of money (gold) has increased in the economy, the price level in country B, experiencing a trade deficit, falls along with its diminishing gold reserves and therefore there is a discrepancy in relative prices, making goods in country A relatively more expensive and goods in country B relatively cheaper. As a result of the difference in relative prices, country A now begins buying more from country B, and this leads to a flow of gold from country A to country B, which brings the system back into equilibrium. This is the basic mechanism that governed the international economic system known as the international gold standard during the late 19th and early 20th centuries.

Under this international economic regime the role of lender of last resort became not just a domestic issue, but also a truly international one. "Though central banks could prevent widespread financial collapses, so long as they maintained precious metal standards with small reserves, they could not prevent the international transmission of crises. In many instances, the crises occurred simultaneously from similar causes in different countries, and it is therefore difficult to distinguish the extent to which a depression originated at home or abroad."³⁷ The process of financial internationalization brought along with it the potential for a contagion-effect, that is, the spread of economic crises from one nation to another, and in an international situation an individual central bank, consortium of central banks, or potentially some sort of international institution would have to play the role of international lender of last resort.

Kindleberger's *Manias, Panics, and Crashes* offers a concise history of financial crises from 1618 to the end of the 20th century and has conveniently identified the lender of last resort, if one existed, in the nearly fifty crises he investigated. The Bank of England acted as a lender of last resort in a variety of financial crises, the aforementioned South Sea Crisis of 1720, in 1772 following speculation in housing, turnpikes and canals being built in the de-

cade following the Seven Years' War, in 1825 following the success of the Baring loan and speculative investment in Latin America, in 1836 due to a textile boom and speculative investment in cotton and railroads, and in the 1847 crisis related to the potato blight and speculation in wheat futures.³⁸ While these crises may have had an international aspect, the Bank of England primarily dealt with them as domestic problems. As has been previously noted, it was only following the establishment of the gold standard internationally that international capital flows became significant enough to warrant intervention by an international lender of last resort.

Ironically, perhaps the greatest argument in support of the need for an international lender of last resort is not the successful implementation of such a project, but rather cases where a lender of last resort either failed to emerge or did not fulfill the role completely and was therefore doomed to failure. Kindleberger argues "that a lender of last resort does shorten the business depression that follows financial crisis. The evidence turns mainly on 1720, 1873, 1882 in France, 1890, 1921, and 1929. In none of these was a lender of last resort effectively present. The depressions that followed them were much longer and deeper than others. Those of the 1870s and 1930s were both known as Great Depressions."³⁹ Kindleberger tempers this contention by admitting that beyond the existence or performance of a lender of last resort "other variables, especially the factors affecting long-term investment: population growth, the existence of a frontier, demands arising from war, exports, the presence or absence of innovations that are not fully exploited, and the like..."⁴⁰ can influence recovery that follows a financial disaster.

The most studied and arguably most clear example of a financial disaster that snowballed into a drawn-out depression due to the lack of a lender of last resort is the Great Depression of the 1930s. Karl Polanyi's *The Great Transformation* published in 1944 offers a scathing critique of the international gold standard as it relates to the development of the Great Depression. Polanyi asserts that following World War I: "Nineteenth-century civilization has collapsed."⁴¹ He defined 19th century civilization as being based upon four institutions: the balance-of-power, the international gold standard, the self-

regulating market and the liberal state.⁴² Polanyi contends that “the gold standard proved crucial; its fall was the proximate cause of the catastrophe. By the time it failed, most of the other institutions had been sacrificed in a vain effort to save it.”⁴³ It is his position that the collapse of 19th century civilization, represented by the economic ruin of the interwar years was a direct result of an over reliance on the self-adjusting market and the liberal economic principles that underlie it. To quote Polanyi:

“If the breakdown of our civilization was timed by the failure of world economy, it was certainly not caused by it. Its origins lay more than a hundred years back in that social and technological upheaval from which the idea of a self-regulating market system sprang in Western Europe.”⁴⁴

The overarching reliance on the self-regulating market was ultimately the downfall of 19th century civilization. The lack of a lender of last resort internationally to effectively regulate the flow of international capital or at least provide a needed source of liquidity during panics forced the international gold standard to collapse under the weight of World War I and the Treaty of Versailles.

In relation to the economic disaster of the interwar years, in *The World in Depression 1929-1939* Kindleberger argues that while central banks were able to maintain a reasonable level of stability domestically, in the international dimension “the lender of last resort was most conspicuously missing.”⁴⁵ While Great Britain attempted to resurrect the gold standard and maintain the pound sterling at an inflated exchange rate following the end of World War I, it became clear by 1931 that this would no longer be possible. The United States, which had been generally untouched by the economic hardship seen in parts of Europe most notably the hyperinflation within Germany’s Weimar Republic, was shocked by the stock market crash of October 1929. A number of explanations have been offered for both the crash and the depression that followed. However it is disingenuous to assert that the depression was a result of the crash, rather the crash was just one of the numerous sparks that pushed the world toward massive depression. Kindleberger offers a particularly compelling

explanation of the depression:

“...the 1929 depression was so wide, so deep, and so long because the international economic system was rendered unstable by British inability and U.S. unwillingness to assume responsibility for stabilizing it by discharging five functions: maintaining a relatively open market for distressed goods; providing counter-cyclical, or at least stable, long-term lending; policing a relatively stable system of exchange rates; ensuring the coordination of macroeconomic policies; acting as a lender of last resort by discounting or otherwise providing liquidity in financial crisis.”⁴⁶

Britain was willing and unable and the United States was able but unwilling to provide the necessary leadership and this ultimately doomed the world economy. Kindleberger identifies this list of five as the essential functions of an international economic hegemon. The role had been played by Great Britain throughout the history of the international gold standard; however following World War I, the United States was the only nation capable of playing the role of international economic hegemon and it failed to do so. This most striking example of economic crisis pressed the United States and other major world powers of the world to reassess their commitments to maintaining stability in international finance and move to develop an international framework to avoid any future economic disaster.

LESSONS LEARNED

The most important lesson of the 1930s was that inactivity can prove fatal. Even prior to the world economic meltdown of the 1930s, the Bank for International Settlements (BIS) was established in 1929 to “depoliticise and to manage the payment of German reparations, the Bank set out to become an instrument of international monetary cooperation, by improving the collective management of the gold standard. The date of foundation was not auspicious for achieving this end, nor was the imbalance in the supplies of world gold reserves.”⁴⁷ Obviously in its first year in existence, the BIS was grossly unprepared to deal with the sort of economic turmoil that engulfed the major economies of the world. However it was a first step toward

a more responsible and stable international financial system with an institutionalized lender of last resort.

The Bretton Woods Conference of 1944 establishing the World Bank and International Monetary Fund set the tone for the regulation of financial markets during the post-World War II world. In place of the fiduciary gold standard system of 1870-1914, Bretton Woods established a gold exchange standard with the U.S. dollar fixed to gold and other currencies then fixed to the dollar. This system along with various capital controls placed on the flow of international capital trading served to make the system reasonably stable until 1973 when the United States was forced to end the linkage of the dollar to gold under pressure from currency trading in the Euro-markets and the fiscal burden of Lyndon Johnson's Great Society and the Vietnam War. While relative stability in the international financial arena was maintained from 1947 to 1973, as the U.S. and the BIS system acted as a lender of last resort, following 1973 the system faltered and combined with the emergence of economic globalization to place a high degree of strain on the international financial system.

The historical necessity of a lender of last resort appears quite clear. The increasing number of financial crises, notably in the developing world over the past three decades, only serves to reinforce the point that an international organization with the sole responsibility of acting as a lender of last resort is needed. While a world financial and economic meltdown on the scale of the 1930s is extraordinarily unlikely, recent experiences in Mexico, East Asia, Russia, Brazil and Argentina underscore the fact that in a global system with free capital flows the current program of IMF structural adjustment packages and World Bank loans to developing countries is woefully ill-equipped to deal with a major financial crisis involving the major economies of the developed world. This paper did not aim to discover an answer to world financial crises, but was rather an attempt to call attention to the historical and theoretical underpinnings of the central banking and the lender of last resort function and emphasize the necessity of further inquiry into the potential structure and influence of a supranational organization capable of promoting stability in the increasingly volatile global economy of the 21st century.

Notes

- ¹ John Kenneth Galbraith, *Money: Whence it Came, Where it Went*, rev. ed. (New York: Houghton Mifflin Company, 1995), 17-18.
- ² Rondo Cameron, *A Concise Economic History of the World: From Paleolithic Times to the Present*, 3rd ed. (Oxford: Oxford University Press, 1997), 287.
- ³ Marjorie Deane and Robert Pringle, *The Central Banks*, 1st ed. (Great Britain: Hamish Hamilton Ltd., 1994), 34.
- ⁴ Deane and Pringle, 37.
- ⁵ Galbraith, 30.
- ⁶ Cameron, 157.
- ⁷ John Guiseppi, *The Bank of England: A History from its Foundation in 1694*, 1st ed. (London: Evans Brothers Limited, 1966), 9.
- ⁸ Guiseppi, 9.
- ⁹ Cameron, 157.
- ¹⁰ Guiseppi, 41.
- ¹¹ Galbraith, 32-33.
- ¹² Galbraith, 34.
- ¹³ Galbraith, 34.
- ¹⁴ Galbraith, 41.
- ¹⁵ E. Damsgaard Hansen, *European Economic History: From Mercantilism to Maastricht and Beyond*. (Copenhagen: Copenhagen Business School Press, 2001), 137.
- ¹⁶ Charles P. Kindleberger, *Manias, Panics and Crashes: A History of Financial Crises*, 4th ed. (New York: John Wiley & Sons, Inc., 2000), 227-228.
- ¹⁷ Cameron, 283.
- ¹⁸ Deane and Pringle, 42.
- ¹⁹ Deane and Pringle, 42-43.
- ²⁰ Cameron, 286.
- ²¹ Deane and Pringle, 48.
- ²² Deane and Pringle, 48.
- ²³ Deane and Pringle, 48.
- ²⁴ Deane and Pringle, 52.
- ²⁵ Deane and Pringle, 52.
- ²⁶ Kindleberger, 161.
- ²⁷ Kindleberger, 162-63.
- ²⁸ Walter Bagehot, *Lombard Street: A Description of the Money Market*. (1873; reprint, Westport Connecticut: Hyperion Press, 1979), 97.
- ²⁹ Kindleberger, 161.
- ³⁰ Stanley Fischer, *On the Need for an International Lender of Last Resort*, Essays in International Economics, no. 220 (Princeton, N.J.: Princeton University Press, 2000), 11.
- ³¹ Kindleberger, 164.
- ³² Fischer, 12-13.

- ³³ Fischer, 6.
- ³⁴ Barry Eichengreen, *Globalizing Capital: A History of the International Monetary System*, 1st ed. (Princeton, NJ: Princeton University Press, 1996), 37.
- ³⁵ Fischer, 16.
- ³⁶ Eichengreen, 25.
- ³⁷ James Foreman-Peck, *A History of the World Economy: International Economic Relations Since 1850*, 2nd ed. (London: Harvester Wheatsheaf, 1995), 82.
- ³⁸ Kindleberger, 224-227.
- ³⁹ Kindleberger, 207.
- ⁴⁰ Kindleberger, 207.
- ⁴¹ Karl Polanyi, *The Great Transformation* (Boston: Beacon Press, 2001), 3.
- ⁴² Polanyi, 3.
- ⁴³ Polanyi, 3.
- ⁴⁴ Polanyi, 5.
- ⁴⁵ Charles Kindleberger, *The World in Depression 1929-1939*, 1st ed. (London: Penguin Group, 1987), 295.
- ⁴⁶ Kindleberger, *The World in Depression*, 289.
- ⁴⁷ Foreman-Peck, 221.

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EUROPE'S STATELESS NATIONS IN THE ERA OF GLOBALIZATION: THE CASE FOR CATALONIA'S SECESSION FROM SPAIN

By Josep Desquens

"The life of the Catalan is an act of continuous affirmation [...] It is because of this that the defining element of the Catalan psychology is not reason, as for the French; metaphysics, as for the Germans; empiricism, as for the English; intelligence, as for the Italians; or mysticism, as for the Castilians. In Catalonia, the primary feature is the desire to be."

— Jaume Vicens Vives, Catalan historian¹

Many citizens of Flanders in Belgium, Scotland in the United Kingdom and Catalonia in Spain do not consider themselves merely part of a region but an independent nation that has no state of its own. Greater self-rule is the central objective of the so-called nationalist political parties characteristic of these European regions and the possibility of secession² has been part of their politics for years. Yet while secession is mentioned as one option for the future, mainstream parties perceive it as a utopian formula rather than a viable alternative. This results partly from a genuine allegiance to the existing states by many of these regions' residents, but also from the fear

of the unknown and a surprising lack of information about the economic costs of remaining part of these states and the potential economic benefits of independence.

Current conventional wisdom in the European Union and the United States sees the issue of secession as something outdated or even dangerous.³ Mainstream politicians, diplomats and academics tend to present it as a senseless option at a moment in history where the focus is building a united Europe and a free-trade world. The thought of the wars in the former Yugoslavia makes many fear such an option. However, the situation in Catalonia, Flanders or Scotland is not comparable – these stateless nations are well-established democratic societies that respect human rights and free-market economies within the European Union. Thus, Catalans, Flemish or Scots cannot ignore that full political independence remains a serious option for them. The desire for secession needs to be objectively analyzed and the costs and benefits properly weighed.

Many Catalans do not consider themselves Spanish but exclusively Catalan. Such feelings raise eyebrows in other parts of Spain, Europe and elsewhere, but are widely accepted as legitimate within Catalonia. The key goal of Catalonia's main political party, *Convergència i Unió* (CiU),⁴ which has governed the region for more than twenty years, is to gain higher levels of self-government. It defines itself as Catalan nationalist (or Catalanist) and frequently refers to the Catalans' right to political self-determination. With this party's support, the Catalan Parliament declared fourteen years ago that it would not renounce this right. Yet it does not seek full independence from Spain. *Esquerra Republicana de Catalunya*,⁵ which does publicly support full independence and is Catalonia's fourth largest political force, held about 9 percent of the vote in the last regional elections.⁶ Polls on the issue reflect that a much higher percentage of the population sympathize with the idea of secession.⁷

In Spain, this is a hot topic. The Autonomous Government⁸ of the Basque Country unveiled a "Sovereignty Plan" last year which calls for a referendum on the issue of self-determination⁹ once there is an end to the violence of ETA (*Euskadi Ta Askatasuna*), the region's separatist terrorist group. The central Spanish government in Madrid

is strongly opposed, arguing that the Spain's Constitution does not foresee the right to self-determination for any part of the country. Recently, CiU made public a plan to reform Catalonia's Statute of Autonomy¹⁰ that reaffirms the right to self-determination, claims Catalan representation in various international organizations and demands sole control of areas such as immigration and tax collection, among many others, which are today responsibility of the Spanish central government.¹¹

There are broadly three main arguments for the independence of Catalonia. The first is that since the Catalan cultural and language is neither understood nor accepted in Spain (and so neither protected nor fostered), the best way forward is an independent state. This results from three centuries of linguistic and cultural discrimination, which reached its pinnacle under Gen. Francisco Franco's thirty-six-year dictatorship. The second one says that a well-defined political entity such as Catalonia should be mature enough to govern itself with its own voice in the European Union¹² or the United Nations in order to address the problems specific to it. Finally, there is the belief that Catalonia would be better off economically by seceding. In particular, proponents of the last argument refer to the fact that Catalonia pays much more into Spain's central treasury than it gets back (subsequently referred to here as the fiscal imbalance) and to the excessive bureaucracy resulting from the current administrative arrangements.

The economic arguments are contested. Some believe an independent Catalonia would not be economically viable; others argue that it does not make sense given that globalization and the European Union have brought about the blurring of borders. But only a few seem willing to undertake a serious economic assessment of an eventual secession, as this has become a "politically incorrect" issue in Spanish politics.

The purpose of this article is to show that there are sound economic and administrative arguments supporting the case for Catalan independence and that there are no objective reasons to believe that a Catalan state could not be viable from an economic perspective. Secession would mean getting rid of the current fiscal im-

balance with Spain, which has seriously hampered Catalonia's growth and endangers its future economic performance. It would also mean simplifying the current oversized bureaucracy and having a direct voice in international forums. Moreover, I will argue that the processes of economic globalization and European integration are creating a new reality that reinforces, rather than weakens, the case for secession. Overall, evidence indicates that from an economic perspective, independence is the best solution for the people of Catalonia presently.

I will not touch upon the cultural arguments and I will not discuss whether an independent Catalonia would be morally legitimate or historically justified. Though there are strong historical and cultural arguments that justify going it alone, one could also argue that there are many others that support being part of Spain.

CATALONIA: AN OVERVIEW

With roughly six and a half million inhabitants,¹³ the Autonomous Community of Catalonia is larger than four of the current fifteen member states of the European Union (Denmark, Ireland, Finland, Luxembourg¹⁴) and than seven¹⁵ of the ten new countries joining the E.U. community in 2004. It has approximately the same population and surface area as Switzerland.¹⁶

Catalonia has an ancient history.¹⁷ Greeks, Romans and Phoenicians have all left their mark in the country. Arab influence was also notable, though less than in other parts of Spain as Arab rule was brief. In the Middle Ages, as a central component to the Crown of Aragon, it became one of the most important powers in the Mediterranean Sea. In the 15th century, it was united with the Kingdom of Castile through a royal marriage. Yet the result was not a common state, but a confederation of states with separate parliaments, laws, and language. In 1640, the War of the Harvesters¹⁸ was fought against the increasingly centralist Castilian government. At the same time, Portugal (then also attached to Castile) fought for independence and won. Instead, Catalonia lost the war and was forced to cede part of its northern terrain to France. During the War of Spanish

Succession in the 17th century, Catalonia supported the Habsburg pretender to the Spanish throne, who favored a federalized Spain, against the French Bourbon claimant, the future Philip V of Spain. Once again, Catalonia lost, and as a consequence, the new Bourbon king wiped out all Catalan institutions and forbade the official use of the Catalan language. This effectively ended the Catalan state structure and began a process of cultural assimilation that continued until the 20th century.

The Catalan national conscience reemerged in the 19th century, as nationalism surged throughout Europe. Initially a culturally focused movement that looked back at the medieval epoch of political glory and cultural and literary richness, it soon developed into a regionalist movement demanding greater political autonomy. During the early 20th century before the Spanish Civil War from 1936 to 1939, Catalonia enjoyed partial self-rule on various occasions and a Catalan Republic within the Iberian federation was proclaimed twice. However, with Franco's victory in 1939, one of the darkest periods of Catalan history began.

Gen. Franco's dictatorial regime is key to understanding Catalonia today. While all Spaniards were victims of Franco's ruthless and institutionalized violation of human rights, Catalonia¹⁹ suffered a cruel and systematic attempt at cultural annihilation. It endured repression of individual and collective cultural rights, such as the prohibition of the use of the Catalan language, the public denial of the Catalan identity and punishment for cultural expression.²⁰

The arrival of democracy in 1975 initiated a process of recuperation of the Catalan institutions, culture and language. Today, Catalonia has the highest level of self-governance that it has enjoyed since the Bourbon dynasty came to power three centuries ago. The Autonomous Government and Parliament have substantial responsibilities in areas such as education and culture, its own health care system, its own police, etc. After Germany and Belgium, Spain is the most decentralized country in the European Union, with the Basque Country, Navarre and Catalonia as the most autonomous regions.

Language is central to understanding Catalonia's identity. Having survived three centuries of repression from Spain, it still has

a vibrant and sophisticated literary scene²¹ and its language is used by about eight million, known by ten million and widely spoken at all levels of society. It is spoken not only in Catalonia, Valencia and the Balearic Islands (Autonomous Communities where it has the same legal status as Spanish), but also in the eastern part of Aragón, the Principality of Andorra (where it is the only official language), the historically Catalan territories of southern France and the city of Alguer (Alguerho, Italy). In fact, Catalan is more widely spoken than a number of other official E.U. languages, like Danish, Finnish, Slovak, Slovenian, Latvian, Lithuanian and Maltese. Yet it does not enjoy recognition by E.U. institutions, as all Spanish governments have consistently ignored Catalonia's demand to press for this. There are numerous radio and TV channels, newspapers and magazines in Catalan, and, more than eight million books are edited in Catalan every year.²² This recovery of the Catalan language – thanks to a vigorous language policy and hefty funding – might look impressive by many counts. However, it faces very serious threats and is a main concern for many Catalans. Catalan is the weaker language in a bilingual society where Spanish is equally spoken.²³

Apart from its long-standing literary tradition, Catalonia has shown a high level of cultural creativity over the last century. Many painters (Dalí, Miró, Tàpies), architects (Gaudí, Bofill), musicians (Granados, Savall, de Larrocha) and opera singers (Carreras, Caballé) confirm Catalonia's standing in art and culture. It still is a center of imaginative talent in areas like design, fashion and architecture, particularly focused in Barcelona, the capital.

THE FISCAL IMBALANCE BETWEEN SPAIN AND CATALONIA

The long history of Spanish centralism has resulted in Catalans, as opposed to other regions of Spain, traditionally valuing private initiative rather than the state in order to develop. This has led to Catalonia being a relatively rich and dynamic region within Spain,²⁴ a country that is relatively poor by E.U. standards.²⁵ Catalonia has a strong net of small and medium businesses and many micro-entrepreneurs. Containing about 16 percent of Spain's popu-

lation, it provides about 20 percent of its GDP and one-third of the total industrial production and exports. The region contributes about 25 percent of Spain's total taxes, but public investment in Catalonia is scarce when related to either population or GDP contribution. The regionalized investment of the Spanish state in Catalonia from 1982 to 1998 represented only about 8.5 percent of the total.²⁶

Spain's central government controls tax collection and decides the distribution of the fiscal revenues throughout the country.²⁷ So Catalans pay taxes to Madrid in exchange for public expenditure in the region. The difference between what is paid by the region and what is received back in the form of public spending is the fiscal balance, which can be positive (a 'fiscal surplus' for Catalonia) or negative (a 'fiscal deficit' for Catalonia). Calculating the fiscal balance is not an easy task. There are technical difficulties: Many public services that benefit Catalan citizens are not provided directly in Catalonia but from Madrid (e.g. army, ministries) and so valuing this is complicated. As well, the Spanish central government appears not to make available all necessary data, although it is in theory obliged to do so according to a resolution from the Spanish Parliament.²⁸ However a number of studies in recent years²⁹ have estimated the Catalan fiscal balance with Spain, showing not only a deficit (i.e. pays more than it receives back) but one of the highest of any region in the European Union. I refer to this situation as the fiscal imbalance.

These studies estimate the Catalan fiscal imbalance with Spain to be between 7.5 percent and 10 percent of the Catalan GDP³⁰ i.e. for every 100 euros of income created yearly in Catalonia, between 7.5 and ten never return. In absolute terms, the deficit is between about 6.7 billion and about 9 billion euros or around 1,240 euros annually per capita³¹ (using the median of the estimates, 7.9 billion euros).

This is a highly abnormal situation when comparing Catalonia to similar regions in other E.U. countries.³² First, if we compare it to regions that have similar levels of per capita GDP, we find that it has by far the largest fiscal imbalance among its E.U. peers. Nine out of fourteen comparable regions – e.g. Aquitaine in France; Scotland in

the United Kingdom; Umbria in Italy; and the Southern region in Sweden – enjoy fiscal surpluses in their respective states. In those carrying a fiscal imbalance (e.g. Lisboa-Vale do Tajo in Portugal), it is nowhere higher than 3 percent. A second useful exercise is to compare Catalonia to regions whose income per capita is approximately 20 percent higher than the average of their respective state, as is Catalonia's. These areas include Ile-de-France, Bavaria, Baden-Württemberg, South East England, Stockholm, Emilia-Romagna and Lombardy. In this case, only the two Italian regions have a comparable fiscal imbalance – a situation that has created an unprecedented political uproar, mainly articulated through the Lega Nord political party, which is resulting in the reorganization of the Italian Republic through the process of so-called devolution.

The fiscal imbalance has been sustainable in the past because of Spain's relatively closed economy. However, it is not sustainable in the context of globalization. Catalonia will never be globally competitive if it has to carry such a heavy fiscal burden. Catalan companies pay high taxes, only to receive few public services and low infrastructure investment. High taxes result in making the region less competitive, the low level of investment in infrastructure lowers productivity.³³ Not only does it hamper economic growth and the modernization of the Catalan economy, but it also impoverishes Catalan citizens and damages their social and territorial cohesion. As Columbia University professor Xavier Sala-i-Martin puts it: the fiscal imbalance is "the major challenge facing the Catalan economy for its development in the next 25 years."³⁴

Sala-i-Martin has shown³⁵ that if the Catalan fiscal imbalance had been reduced by one-third over the last 25 years, assuming that the freed funds had been fully invested in infrastructure and education (leading to a higher growth rate), Catalonia would now be a frontrunner in Europe in per capita income³⁶ – second only to Hamburg, London and Luxembourg. These are missed opportunities. Today, the independence question aside, the unfair fiscal treatment remains an enormous problem for Catalonia. As such it needs to be addressed in an open and informed way. Unfortunately, this is not happening. On the one hand, many people seem to have lost their

sense of reality after so many years of permanent centralism. On the other hand, many politicians and commentators fear openly talking about an issue that has become 'politically incorrect' in Spain. They do not want to be compared with the Italian right-wing xenophobic Lega Nord, which has used such type of arguments in a highly demagogical manner.

In any case, one thing is clear: the fiscal imbalance is a key argument supporting secession. A fully independent Catalonia would not have to pay taxes to Madrid that are invested elsewhere. Instead, it could invest them to the benefit of Catalonia.

WHAT SOLIDARITY?

The central argument supporting the past and present fiscal imbalance is a so-called inter-regional solidarity. There are also other less convincing arguments such as the populist claim that Catalonia has a historical debt to the rest of Spain,³⁷ or the economically mistaken opinion that such a fiscal imbalance is necessary as a means to finance Catalonia's large trade surplus with the rest of Spain.³⁸ Let us focus on solidarity.

The current inter-regional solidarity system has major structural flaws that have to be recognized. First and foremost, no solidarity system can compromise the economic health of the 'donor,' as the current one is doing. Second, the current system was designed when disparities between Spanish regions were much higher. Now, after twenty years in the European Union, this has changed significantly. Indeed, in comparing Spain to other E.U. countries we see that the regional differences in Spain are not as abysmal as claimed. Countries such as Germany, France, the United Kingdom and Italy have more substantial inter-regional disparities. Third, supporters of the status quo ignore that Catalonia, though rich, has one of the highest rates of intra-regional income disparity in Spain, both territorially and socially. These disparities are not tackled effectively under the current system. In this respect, it is important to highlight that if Catalonia were an independent state within the European Union, roughly half of its territory would be designated as a preferential

area for E.U. structural funds.³⁹ Catalonia is currently considered as a single unitary entity by the European Union and thus, given its overall level of income, is not eligible for these funds. It is in this predicament that significant parts of Catalonia that require public investment do not receive public aid neither from Madrid nor from Brussels.

Sala-i-Martin has referred to an interesting example that illustrates well the character of the present Spanish solidarity system.⁴⁰ In 2000, the GDP per person in Catalonia was 21.9 percent higher than the Spanish average. In comparison, the GDP per person of the Autonomous Community of Castilla y León was 7.6 percent lower than the Spanish average. On the basis of this income differential, one could argue that there is a need for some kind of inter-regional transfer. The surprise comes when we assess the extent of these transfers: Catalonia's Income per capita (after redistributions) was 4.3 percent higher than Spain's average, while Castilla y León's was 9 percent higher.⁴¹ In other words, despite producing over 30 percent more, the redistribution system results in Catalans ending up with a lower income per capita than Castilian-Leonese people. This supports the argument that the Spanish inter-regional transfer system is neither fair nor economically beneficial, but creates a welfare dependency that harms entrepreneurship and growth in the poorer regions.

THE VIABILITY OF AN INDEPENDENT CATALONIA

As mentioned before, many Catalans do not support secession because they believe that it would not be economically viable. Yet thus far, there are no convincing arguments to support such a statement.

The argument that Catalonia is too small to be an economically sustainable independent state is incorrect. Not only is there no serious economic theory arguing that a country's economic success requires a minimum size, but the evidence suggests a different reality. Looking at the ten countries with the highest GDP per person in the world shows that the Catalan proverb "the good marmalade is in the small pot" is applicable to economics: Eight out of the ten richest

countries in the world (measured by GDP per capita) have a population equal or lower to that of Catalonia's six million inhabitants.⁴²

Another element of the economic inviability speech refers to the availability of natural resources: An independent Catalonia will not be able to prosper because it does not have sufficient natural resources. Again, this logic is flawed. There is no established correlation between natural resources and economic prosperity: Though there are examples supporting this relationship, such as Norway, there are others refuting it. Oil-rich Venezuela has proven that abundant resources can lead to economic disaster if improperly managed, while a relatively poor country in terms of resources, such as Japan, is one of the richest in the world. The use of natural resources is indispensable for economic development and a country that wants to grow will need to obtain them. The way to do so efficiently is through international trade, not giving up political independence to a larger country.

A central theme in the anti-secessionist economic discourse is based on the fact that Spain is the main market of Catalonia. Thus, seceding from Spain would result in an economic catastrophe because Catalonia would lose its main market. The flaw in this argument is that there is no reason to expect Spanish trade embargoes or a boycott of Catalan products, particularly in the E.U. context. Secondly, Spanish citizens buy Catalan products due to their quality and price and not for some abstract Spanish national solidarity. Therefore, as long as secession does not increase the prices or lower the quality of Catalan products, no loss of market should occur. Finally, this argument overlooks an important reality: It is normal for a country that its main market is a neighboring country, particularly in the case of small countries. The Netherlands and Denmark's largest trading partner is Germany; Belgium's is France; Portugal's largest market is Spain, yet there is no suggestion that Portugal reunite with Spain.⁴³

Critics of secession can rightly argue that being part of Spain makes economic sense because it allows Catalonia to share the costs of public goods of the military, diplomatic representations, etc., among forty million people instead of six million. Although this is undeni-

able, it overlooks two facts. First, the huge regional fiscal imbalance shows that today Catalans are paying for these services twice what they would pay in a separate Catalan state. Second, the cost of some of these public goods (e.g. monetary system, antitrust regulation) is being transferred to the E.U. supranational level (i.e. financed by all E.U. citizens).

In conclusion, there is no objective economic reason to believe that a hypothetical Catalan state should not be viable from an economic perspective. If Slovenia has performed well since seceding from Yugoslavia with its much smaller and less diversified post-communist economy, an independent Catalonia should also be able to do well economically. In the end, the success of a Catalan state will depend on its own government. Independence will be good for Catalans only if the Catalan state would be able to pursue sound macroeconomic policies that foster growth and economic welfare. While it is uncertain how well a Catalan government could manage its economy, we know that the performance of the Spanish government over the last century has been overall poor. Moreover, as independence would mean getting rid of the aforementioned fiscal imbalance with Spain at once, a Catalan state would enjoy significant room to maneuver.

GLOBALIZATION

It is often heard in Europe that it does not make sense to talk about the secession of stateless nations in the context of globalization. It is claimed that in an era of fading borders and boundaries, it is not the time to build new ones. This type of conventional discourse results in avoiding an open and objective discussion about the possibility of an independent Catalonia, Basque Country, Scotland, Flanders or any other European stateless nation.

As shown by Harvard University professor Alberto Alesina and his colleagues,⁴⁴ the reality is rather the opposite: "Trade liberalization and political separatism appear to go hand in hand." The increase in free international trade directly relates to the economic viability of new states. Globalization makes the independence of

Catalonia more viable because it guarantees access to international markets. Likewise, it makes secession much more desirable for the health of its economy, as fewer bureaucratic layers would increase Catalan competitiveness⁴⁵ in global markets.

In a context of international trade restrictions, large countries enjoy economic benefits because political borders determine the size of the market. In this context, small nations such as Catalonia find belonging to a larger state such as Spain to be in their economic interest because it gives them access to a larger market. Thus, from a purely economic point of view, being part of Spain has benefited Catalonia.

In a world of increasingly free trade and global markets, this rationale is no longer valid. Relatively small cultural, linguistic or ethnic groups have the possibility to benefit from creating new political entities that trade in economically integrated wider areas. With its own state, Catalonia could benefit from improved administrative efficiency and still have access to foreign markets in which to sell its products. In other words, free trade is a good substitute for a political union as a way to access bigger markets in the context of globalization.

It is important to highlight here that small countries appear to be among the main beneficiaries of freer trade. That should not surprise us if we look at the small European countries that have traditionally been active traders, like the Northern Italian city-states and the Low Countries. Professor Alesina has suggested that population explains a third of a country's openness to trade (i.e. trade relative to GDP). A study by the World Trade Organization (WTO) of 127 countries (both developed and developing) finds a clear relationship between the size of a country and its openness to trade.⁴⁶ While the benefits of being a small country (e.g. easier to manage, greater homogeneity, specialization) remain, the drawbacks are decreasing with free trade and new technologies.

In addition, globalization is also compromising many of the traditional functions of mid-sized countries such as Spain, making them less desirable to their citizens – in particular, to differentiated groups such as the Catalans. On the one hand, these states are not

big enough to solve global problems involving issues like international terrorism, international capital movements, regulation of transnational corporations, the HIV/AIDS epidemic or global warming. On the other hand, they are still too large to solve local problems. If Spain is not big enough to tackle global problems and not small enough to properly deal with Catalan specificity, then it should change or disappear. So far, it has shown no willingness to change. As professor Sala-i-Martin puts it: "at the end of the day, states and governments should serve the people and not the other way around."⁴⁷

THE EUROPEAN UNION

The process of European integration, supposedly based on the principle of subsidiarity,⁴⁸ has long been at the center of the European stateless nations' ambitions to increase their degree of political autonomy. It is argued that talking about secession in the context of European integration is senseless because this process should lead to the disappearance of current borders and nation-states as we know them today. It is claimed that Europe will naturally become a loose confederation of independent regions.

These expectations are, however, proving unrealistic. Indeed, the principle of subsidiarity creates a perception problem: While for the majority of E.U. states (with the notable exception of Germany) it applies only to the relationship between the European Union and its member states, for these stateless nations it also fully applies to their administrative relationship with their respective states. Thus, in Catalonia the process of European integration has raised expectations of higher levels of political power that are not being matched by reality. In fact, expressions such as "Europe of the regions," so often heard in Barcelona, are rarely used in Madrid. Because for virtually all state governments, the E.U. project is to be built on the existing nation-states and the transfer of political power to the regions should never undermine the pivotal role of these central governments. The development of the current European Convention, which is drafting an E.U. Constitution, appears to confirm such position. Plus ça change ...

Even though the E.U. nation-states are not willing to give more power to their regions in the name of the principle of subsidiarity, the process of elevating state responsibilities to the European supranational level is clearly undermining their own *raison d'être*. The Spanish state has given up its sovereignty in key areas such as trade policy, antitrust regulation, environmental legislation and – through the European Monetary Union – monetary policy. Today, the number of functions that it undertakes for Catalan citizens has significantly diminished. In this context, it is legitimate for Catalans to ask themselves whether the remaining attributes of the Spanish central government (e.g. fiscal policy) could not be better managed by the Catalan government, one closer to them, with greater knowledge of their needs. The evidence shown above in relation to the fiscal imbalance seems to indicate that Catalonia would be better off if it could undertake those directly itself.

The process of European integration also provides a significant argument for the independence of Catalonia, Flanders or Scotland: administrative efficiency. The maintenance of the state's intermediary role between the European and local powers results in higher transaction costs that hamper economic development. Particularly in federal or semi-federal states like Spain or Belgium, keeping a central state that has less and less to offer to its citizens is becoming more expensive to maintain and very complex to manage. Thus, secession appears as an economically desirable option because it would result in lower costs and complexity that would reduce the burden carried by the Catalan economy.

We have seen how the European Union is calling into question the existence of old centralized European states such as Spain. In this context, becoming a small less bureaucratic state within the European Union would result in increased economic efficiency.⁴⁹ It would also be the best way for Catalan interests to be represented in the process of European construction – as opposed to being represented by a Spanish government that has repeatedly refrained from defending important Catalan interests (e.g. language official recognition). Finally, the European Union is *de facto* lowering the potential cost of independence by providing Catalonia with a free trade

area, as well as saving the need to incur costs such as creating a new currency.

FINAL REFLECTIONS

Unlike many nations in Europe that have flourished due to the creation of a nation-state, Catalonia exists despite a unitary and centralist Spanish state that has repeatedly tried to eliminate it as a separate cultural entity. In this context, the mainstream Catalan nationalist movement – in particular, since the end of Franco's dictatorship's attempt at linguistic genocide – has traditionally focused on cultural and linguistic promotion. At the same time, it has allowed a damaging fiscal relationship with Spain to develop that might have led to a civil uproar in other countries. Years of permanent centralism have atrophied the perception of reality of many Catalans, making them accept this administrative relationship as perfectly normal even when it goes against their interests.

Today, culturally-focused policies are insufficient. Catalan politicians need to ensure the continuity of the culture and language, but they also need to inform Catalans openly that they are paying a high price to be part of a unitary Spanish state. They have to make all Catalan citizens aware of the fact that, in the name of a questionable solidarity, the current fiscal imbalance results in serious public under-investment that will hurt their economy. And, more importantly, they need to tell them that this is a problem that affects all Catalans equally: first-generation and tenth-generation Catalans; Catalan-speakers, Spanish-speakers and Arabic-speakers; employers and employees; men and women; students and retirees.

It is urgent that Catalans realize that only with a new administrative structure can Catalonia be competitive in the international markets and guarantee better public services, modernization of its infrastructure, social cohesion and economic growth. Among all possible options, it is independence that makes more sense economically, particularly in the context of globalization and the European Union. Why? First, secession would guarantee that the existing unfair fiscal imbalance would be eliminated. Second, an independent

Catalonia would result in a smaller more efficient public administration. Third, a Catalan state would still have access to international markets in a free-trade world. Finally, full independence would mean a direct voice in the international forums that so much influence their lives.

No referendum on the question of independence will be a fully rational exercise. Independence from Spain is not simply a matter of economics or administrative rationality. Identity issues, in Catalonia and elsewhere, are highly complex. Some might want to be part of Spain even with an unfair fiscal treatment; others might want independence even if the cost is high. However, this does not negate the fact that economically, independence would not only be viable, but also advantageous. Catalans might want to vote from their pockets rather than from their hearts.

Notes

¹ Cited in: Jesús Mestre i Godes, *Breu Història de Catalunya* (Barcelona, Spain: Ed. 62 Llibres a l'Abast, 1998), 10.

² For the purposes of this paper, the terms independence and secession (of Catalonia from Spain) will be used interchangeably. They refer to the possibility of Catalonia creating its own sovereign state, fully independent from the current Spanish state.

³ For instance, in one of its studies, the Council of Foreign Relations concluded that "while the creation of some new states may be necessary or inevitable, the fragmentation of international society into hundreds of independent territorial entities is a recipe for an even more dangerous and anarchic world." Cited in: Mohamed Ayoob, "State Making, State Breaking and State Failure," in eds. Chester A. Crocker, Fen Osler Hampson, and Pamela Aall, *Turbulent Peace. The challenges of managing international conflict* (Washington, D.C.: United States Institute of Peace Press, 2001), 127-142.

⁴ For further information see *Convergència i Unió (CiU)*, <<http://www.ciu.info>>

⁵ For further information see *Esquerra Republicana de Catalunya (ERC)*, <<http://www.esquerra.org>>. See also: Josep-Lluís Carod-Rovira (Secretary General of ERC), "Globalization, Catalonia and the Future of Stateless Nations: The Case of Catalonia," Conference organized by the LSE London School of Economics and Political Science in London on January 30, 2003.

⁶ The elections took place in 1999; new regional elections are expected to take place later this year. *Convergència i Unió* (CiU) obtained circa 38 percent of the vote. The other two main parties in Catalonia are the *Partit dels Socialistes de Catalunya* (PSC) – a left-wing party part of the Spanish socialist federation, *Partido Socialista Obrero Español* (PSOE) – and the *Partido Popular* (PP), the right-wing party currently in power in the Spanish central government. While PSC-PSOE has traditionally been quite receptive to the nationalist demands for more self-rule in Catalonia and defense of the Catalan culture, the PP represents the anti-Catalanist pro-Spain position that defends the administrative status quo and the fostering of the Spanish language in Catalonia.

⁷ The last survey (survey 2410, March 2001) touching upon the issue of independence published by the *Centro de Investigaciones Sociológicas* (which undertakes a variety of surveys on behalf of Spain's central government) is available on-line at <http://www.cis.es>. To the question "Personally, would you be for or against Catalonia being independent?" the results were as follows: For: 35.9 percent; against: 48.1 percent; does not know: 13.3 percent; does not answer: 2.8 percent.

⁸ The Kingdom of Spain is a parliamentary monarchy organized into nineteen Autonomous Communities – in Spanish, *Comunidades Autónomas* in plural and *Comunidad Autónoma* in singular (nineteen includes Ceuta and Melilla, two Spanish cities located in Northern Africa that have recently acquired the status of Autonomous Community). These are: Andalucía, Aragón, Asturias, Ceuta, Canarias (Canary Islands), Cantabria, Castilla-La Mancha, Castilla y León, Catalunya (Catalonia), *Comunitat Valenciana*, Extremadura, Galicia, *Illes Balears* (Balearic Islands), La Rioja, Madrid, Melilla, Murcia, Navarra, País Vasco (Basque Country; *Euskadi* in the Basque language). The structuring of the Spanish state into Autonomous Communities is one of the most relevant features of the 1978 Spanish Constitution: Article 2 states that the right to autonomy of the nationalities and regions of which it is composed is recognized and guaranteed. This provision is based, however, on the premise of the indissoluble unity of the Spanish nation (the common fatherland of all Spaniards) – in fact, the Constitution does not recognize the right to self-determination for any part of the country and forbids the possibility of the country becoming a federation. Each Autonomous Community has been provided with their own organ of government (e.g. executive organs such as a President, a Council of Ministers, and an Autonomous Administration) and representative institutions (Autonomous Parliament). It is important to highlight that the 1978 Constitution formally designates some of these Autonomous Communities as "regions" while others are termed "nationalities:" this is a formal recognition of certain obvious historical and linguistic realities (such as Catalonia's), but there was no intention that such recognition translate into practical distinctions. Both types of Autonomous Communities are treated equally in the Constitution. The Constitution does, however, anticipate that the aspirations for self-government are not the same in all of the Autonomous Communities (from the beginning, these were clearly greater in the Basque Country and Catalonia than in

Extremadura) and, consequently, there is recognition of different degrees of autonomy. In fact, today the degree of development of the self-rule political organs varies greatly throughout the Communities, the Basque Country, Navarre and Catalonia allegedly being the ones that have developed further.

⁹ The human right to self-determination is included in numerous international treaties and has widely been called upon during the 20th century. This is shown by the steep increase in the number of states: in 1946, there were 74 sovereign states; today, there are 193. As mentioned above, this right is not recognized by the present Spanish Constitution.

¹⁰ With the reestablishment of a democratic regime in Spain, the slow restoration of the Catalan institutions of self-government started. The 1977 democratic elections in Spain, the reestablishment of the provisional Generalitat (the name of one of the Catalan political institutions in the Middle Ages, which today refers to the ensemble of present Catalan self-rule institutions) in the same year, the enactment of the 1978 Spanish Constitution, and the 1979 Catalan Statute of Autonomy (Estatut d'Autonomia), and finally the 1980 Catalan legislative elections were the milestones, which led to the reestablishment of autonomous political power in Catalonia embodied in the Generalitat. The Estatut states that the Generalitat shall be composed of three essential bodies: "the Parliament, the President of the Generalitat, and the Executive Council or Government." The Spanish Constitution and the Catalan Statute stipulate that the laws of Catalonia "shall regulate the functioning" of these institutions.

¹¹ "Spain and its Regions. Asking for More," *The Economist*, April 4, 2003.

¹² It is important to highlight that all Catalan pro-independence political and civil groups only foresee an independent Catalonia as a full member of the European Union.

¹³ 6,361,365 according to the last available population census. See *Assembly of European Regions*, <<http://www.are-regions-europe.org/VICARDS/pays/E/CATAL.html>>

¹⁴ *CIA World Factbook*, <<http://www.cia.gov/cia/publications/factbook>>

¹⁵ These are Cyprus, Estonia, Latvia, Lithuania, Malta, Slovakia and Slovenia.

¹⁶ circa 40,000 sq km.

¹⁷ For a brief historical background, see *Generalitat*, <<http://www.gencat.es/historia/aindex.htm>>

¹⁸ This war, "La Guerra dels Segadors," is the subject of the Catalan national anthem.

¹⁹ Together with the Basque Country and Galicia, two Northern Spanish regions with long-standing differentiated cultural traditions, as well as the other two regions with Catalan-speaking populations, Valencia and the Balearic Islands.

²⁰ For an overview of Gen. Franco's repression of the Catalan culture and language see: Josep Maria Solé i Sabaté, *Cronologia de la Repressió de la Llengua i la Cultura Catalanes (1936-1975)* (Barcelona, Spain: Curiel, 1993).

²¹ Apart from the literary production in Catalan, there are many Catalan authors

who write in Spanish, or who write indistinctively in Catalan and Spanish.

²² Catalan is the tenth language into which the most books are translated worldwide.

²³ The rapid economic development during the 1960s resulted in mass migration from other parts of Spain into Catalonia. This produced a dramatic demographic change, by which Catalonia was transformed from a virtually monolingual society to a de facto bilingual society. There had been significant migration from Southern Spain to Catalonia during the 1920s and before, but the levels of the 1960s were unprecedented. As a result of this relatively recent migration process, approximately half of Catalans are today non-native Catalan speakers. At present, the situation is accentuated by the new waves of immigration – one out of four extra-E.U. immigrants into Spain settles in Catalonia (if they are from the Magreb this proportion increases to up to two out of three).

²⁴ In 2001, the Catalan GDP per capita represented 122.2 percent of the Spanish average (i.e. 22.2 percent higher than the average). By this count, Catalonia was the fourth richest Autonomous Community in Spain, behind the Balearic Islands (130.9 percent), Madrid (128.4 percent) and Navarre (123.6 percent). See *FUNCAS* (*Fundación de las Cajas de Ahorros Confederadas*), <<http://www.funcas.ceca.es>>

²⁵ Spain's per capita GDP is nearly 87 percent of the E.U. average. For E.U. state and regional GDP and other economic data, see the E.U. statistical service, *Eurostat*, <<http://europa.eu.int/comm/eurostat>>

²⁶ Úrsula de Serrallonga, *El Dèficit Fiscal de Catalunya amb Espanya: una Anàlisi Divulgativa* (Barcelona, Spain: Ed. Pòrtic i Òmnium Cultural, 1999).

²⁷ This is not true for the Autonomous Communities of the Euskadi (Basque Country) and Navarre, which for historical reasons have tax collecting powers. In fact, the Basque model is often put forward by some Catalan nationalists as a potential model for Catalonia. The tax relationship between Spain and the Basque Country is governed by the *Concierto Económico*, or Economic Agreement. This Agreement (whose origins date back to the second half of the 19th century, to the so-called *Fueros* or system of Basque laws and historic rights) provides Euskadi with the majority of the more usual revenues collected under a modern Treasury system. The current special system is legally backed by the Spanish Constitution and the 1977 Basque Statute of Autonomy and results in Euskadi having de facto its own Autonomous Treasury, which allows it to exercise and develop independently its competencies. In this context, the Basque Autonomous Government has the power to regulate taxes and the necessary autonomy to manage and collect them. Besides a series of general principles, rules on harmonization and standards governing collaboration, the Economic Agreement also contains the regulations that determine when the Basque or common Spanish tax system prevails and which administration is entitled in which cases to exact the taxes. As a part of this system, Euskadi remits some of the taxes collected to the Spanish Treasury to cover general expenditure on areas of interest of the Spanish state (including foreign affairs, defense and the armed forces, customs and general transport). The contri-

bution is known as the Cupo, or Quota, and the amount to be paid is set according to its capacity, to its relative revenue. The Concierto Económico has recently been re-negotiated between the Basque and Spanish authorities, as the previous one expired in December 31, 2001.

²⁸ de Serrallonga.

²⁹ The most recent thorough study on the Catalan fiscal imbalance appears to be the following: Guillem López Casasnovas and Esther Martínez, *La Balança Fiscal de Catalunya amb el Govern Central (1995-1998)* (Barcelona, Spain: Generalitat de Catalunya - Col·lecció Institut d'Estudis Autònoms, 27, 2000). The conclusions of this study are very similar to the work of various authors mentioned in other parts of this paper (namely, Antoni Castells, Úrsula de Serrallonga and Xavier Sala-i-Martin). Many points of this paper have been inspired by the work of all these authors.

³⁰ The last study by Guillem López Casasnovas and Esther Martínez (2000) estimates the fiscal deficit between 8.37 percent and 9.8 percent of the Catalan GDP. A band is given to reflect the different potential adjustments (referring to differential costs, taxes, social security, etc.).

³¹ Based on a Catalan population of 6,361,365.

³² For details on E.U.-wide comparisons, see: Antoni Castells, "Les Relacions Fiscals de Catalunya amb Espanya" in G. López et al., *Catalunya i Espanya: una Relació Fiscal a Revisar* (Barcelona, Spain: Editorial Proa and Òmnium Cultural, 1998).

³³ A typical illustration of this is the example of highways: a disproportionate number of private toll-paying highways in Spain are in Catalonia, while most of the rest of Spain enjoys toll-free highways.

³⁴ Xavier Sala-i-Martin, interview in *La Vanguardia*, January 30, 2002.

³⁵ Xavier Sala-i-Martin, "Catalanisme Obert al Segle XXI: l'Economia," Conference organized by the Catalunya Oberta Foundation in Girona, Catalonia, Spain on November 23, 2001, <<http://www.columbia.edu/~xs23/catala/articles/2001/FCO>>, 16-18.

³⁶ With a GDP per capita at circa 170 percent of the E.U. average. This represents a level circa 70 percent higher than the actual current Catalan GDP per person.

³⁷ This traditional argument goes as follows: thanks to a protectionist Spanish government that did not allow products from other countries to enter the Spanish market, the Catalan industry was able to develop in the 19th and 20th centuries. Thus, the fiscal imbalance is a historical compensation for such a "debt." This argument ignores that protectionism has been a generalized policy in the world until relatively recently and that Spanish protectionism protected not only Catalan producers but also producers from all parts of Spain. Indeed, other parts of Spain such as the Basque Country also developed significantly. It could actually be argued that Catalonia developed economically in spite of the Spanish government, not thanks to.

³⁸ For a more detailed discussion of the various economic arguments used against the case for independence, which include solidarity, see Serrallonga.

³⁹ For information on the European structural funds, see <http://europa.eu.int/comm/regional_policy/index_en.htm>. Also see Carod-Rovira.

⁴⁰ Sala-i-Martin.

⁴¹ Curiously enough, the current prime minister of Spain, José María Aznar, was previously president of Castilla y León Autonomous Community.

⁴² The top ten world countries ranked by GDP per capita are as follows (2001): Luxembourg, United States, San Marino, Switzerland, Norway, Monaco, Singapore, Denmark, Hong Kong and Belgium. Only the United States and Belgium have populations bigger than Catalonia, <<http://www.globastat.com/e3.htm>>

⁴³ *CIA World Factbook*.

⁴⁴ Professor Alberto Alesina has written extensively about this issue and his ideas have inspired many of the points of this paper. See: Alberto Alesina, R. Baqir and W. Easterly, "Political Jurisdictions in Heterogeneous Communities," *NBER Working Papers* No. 7859 (August 2000); Alberto Alesina, R. Baqir and W. Easterly, "Public Goods and Ethnic Divisions," *Quarterly Journal of Economics* 114 (November 1999): 1243-84; Alberto Alesina and E. Spolare, "On the Number and Size of Nations," *Quarterly Journal of Economics* 112 (November 1997): 1027-56; Alberto Alesina, E. Spolare and R. Wacziarg, "Economic Integration and Political Disintegration," *NBER Working Papers* No. 6163 (September 1997).

⁴⁵ Today the Catalan economy has to support three different bureaucracies: European, Spanish and Catalan. Each of these administrations has several ramifications, which sometimes overlap with each other e.g. Spain's Provincias or Delegados del Gobierno overlap with many of the functions of the Catalan administration. With full independence, Catalan citizens would only have to pay for a European and a Catalan administration, getting rid of many inefficiencies.

⁴⁶ Cited in: "Little Countries. Small but Perfectly Formed," *The Economist*, January 3, 1998.

⁴⁷ Xavier Sala-i-Martin, "Autodeterminación," *La Vanguardia*, May 17, 2002.

⁴⁸ A complicated word for a common-sense principle: The "principle of subsidiarity" means that political action should be taken at the most appropriate politico-administrative level, as close to the people as possible. It is expressed in the Maastricht Treaty as follows: "In areas which do not fall within its exclusive competence, the Community shall take action, in accordance with the principle of subsidiarity, only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member states (...)," <<http://europa.eu.int/en/record/mt/top.html>>. It was set out as a guarantee of a more efficient Europe, closer to its citizens and more respectful of local and national identities.

In addition to this, as discussed above, an independent Catalonia would benefit from E.U. structural funds. For information on the European structural funds, see <http://europa.eu.int/comm/regional_policy/index_en.htm>

ARE U.S. CONCERNS WITH THE INTERNATIONAL CRIMINAL COURT JUSTIFIED?

By Richard C. Palermo, Jr.

Since its inception in 1998, the creation of the International Criminal Court (ICC) has been hailed as a landmark event in the development of international law. The court is the world's attempt to prosecute the perpetrators of crimes against humanity, the most prominent examples of such crimes being ethnic cleansing and genocide. From July to November 2002, discussions on how to structure the ICC culminated in its creation through the ratification of the Rome Treaty.

While the ICC in concept is a tremendous achievement, its execution in practice leaves some critical issues unresolved that could impact the court's future credibility and effectiveness. Key objections from the United States have drawn the ire of the rest of the world, particularly in Europe. With memories of the Kyoto Protocol and the Anti-Ballistic Missile Treaty still fresh, many Europeans cite the U.S. refusal to ratify the Rome Treaty that created the ICC as yet another example of unilateral action from the arrogant global hegemon.

While admittedly the United States could execute its foreign policy in a more diplomatic fashion, the cries of unilateralism are

overblown. Moreover, European criticisms ignore the fact that the Rome Treaty has some serious flaws that must be addressed or the court's future legitimacy may be questionable, at best. Several U.S. objections, such as the omission of amnesties in the reconstruction of democracies, are concerns all signatory states to the ICC should address, as the inclusion of such items could potentially threaten world peace and security.

Other issues specific to the United States relate to the country's status as the most visible, powerful nation on the planet. No other state negotiates more peace settlements, assists with more humanitarian interventions and supports more peacekeeping operations. Thus, no other state is a more visible target for public criticism than the United States.

In the following pages, the key deficiencies of the Rome Treaty will be reviewed in light of the counter arguments currently in the public sphere of debate. The first section will provide a concise background on the court and its accomplishments to date. The second section will cover three 'general' problems with the court – problems the United States has noted, but that the global community should be concerned with as well. Specifically, these issues include the failure to provide a clear and direct link to the U.N. Security Council, the omission of national amnesties in the reconstruction of democracies and the issue of including aggression as a crime. The final part of the argument will deal with specific U.S. objections to the Rome Treaty; the most important of which concerns the ICC's universal jurisdiction. This section will also address U.S. concerns with the court's potential subjectivity, particularly related to peacekeeping operations, as well as the time period allotted for treaty amendments. Currently, there has been little movement on these issues with the rest of the world seemingly content to barrel ahead without the United States. The harsh reality is that the ICC requires U.S. participation far more than the United States requires the ICC, particularly regarding enforcement.

A review of these issues will uncover a painful truth: moving ahead without resolving the critical flaws of Rome is a tragic mistake.

A CONCISE HISTORY OF THE ICC

The end of World War II heralded a new age for the promotion and protection of international human rights. The Nuremberg Trials, established to punish those responsible for the Holocaust, and the 1948 Covenant on Human Rights spawned a movement toward protecting the rights of all peoples and punishing those who violate international norms. At the same time, the seeds were planted for the establishment of a permanent court to oversee such cases. Accordingly, the United Nations General Assembly asked the International Law Commission (ILC) to assess the viability of a permanent criminal court. Two draft statutes were written by 1953, but Cold War politics prevented any real progress toward that end.¹

With the fall of communism in 1990 and the collapse of the Soviet Union shortly thereafter, a new window of opportunity for a permanent court began to emerge. However, it was the brutal ethnic civil wars of the 1990s that provided the key impetus for action. With the outbreak of ethnic civil wars in the former Yugoslavia, work began to make a permanent court a reality. The United Nations again requested the ILC to draft a statute in 1992.

The International Law Commission and the Preparatory Committee's work culminated in the Diplomatic Conference in Rome, where representatives from 150 states met to hammer out an agreement on a statute to create such a court.² Negotiations ended in 1998 with the signing of the Treaty of Rome that established the ICC. The ICC's basic elements include 18 judges, elected by an absolute majority vote of the states parties to the treaty by secret ballot. These judges would hold office for a term of nine years and would not be eligible for reelection.³ It also includes executive organs, such as the presidency, Pre-Trial and Appeals Chambers, Office of the Prosecutor and Registry. Moreover, it allows for a prosecutor elected by secret ballot by an absolute majority of the members of the Assembly of States Parties, as well as several deputy prosecutors, elected in the same fashion from a list of candidates provided by the prosecutor. The prosecutor and the deputy prosecutors hold office for a term of nine years and are not eligible for reelection.

The ICC has jurisdiction over all war crimes, both civil and international, genocide (as defined by the United Nations), crimes of aggression, crimes against humanity and crimes established under treaty provisions that may constitute “exceptionally serious crimes of international concern.”⁴

The establishment of the ICC includes notable achievements. First, the elimination of Ad Hoc Tribunals is a significant advancement in the process for prosecuting war crimes such as genocide. The start-up process for an Ad Hoc tribunal is often cumbersome and slow and has limits on *ratione tempore* and *materiae* (limits on the period of time and material covered). The ICC will eliminate these start-up issues, as well as enable prosecutors to try cases of genocide that occur outside a state of war.⁵

Another advancement achieved at the Rome conference was the addition of sexual offenses to the list of eligible crimes. Born out of the brutal use of rape as a tool of terror in Bosnia and other parts of former Yugoslavia, the ICC has the ability to prosecute such crimes when used as a weapon of war.

Based on the Pinochet case, the culpability of military and civilian leaders was clearly defined and broadened such that leaders could not hide behind the actions of their subordinates. Under the new ICC statute, the military commanders will be responsible for controlling the actions of their soldiers out in the field. Further, civilian leaders may not disregard or ignore the actions of their military commanders.⁶

Lastly, the concept of “complementarity” defines the relationship between the ICC and national courts. The essence of complementarity is that the ICC should complement, rather than replace or supercede national courts. Thus, the primary responsibility for enforcing the laws of war still resides with the national courts.⁷ This is a significant provision, as it allows national courts to investigate and prosecute crimes that occurred within their jurisdiction unless the national court is unwilling or unable to handle the case effectively – a key difference between the ICC and the Rwandan and Yugoslavian tribunals.⁸

ROME TREATY CONCERNS

While the Rome Statute could be characterized as a significant step forward from earlier attempts at international war crimes tribunals, a debate persists about a significant number of structural considerations.

Amnesties

The omission of amnesties is a critical point of debate, as the resolution of many civil wars results from agreements to protect former leaders from punishment. National reconciliation in Argentina, Chile, El Salvador, and South Africa all concluded with some form of amnesty arrangement for the past leadership. I. William Zartman, a pre-eminent scholar in the area of conflict management and resolution, refers to the issue as one of the six dilemmas of conflict management: Justice vs. Peace.⁹ In violent ethnic conflicts, it is often extremely difficult, if not impossible, to reach a lasting peace settlement without sacrificing justice. As Zartman so aptly puts it, "Peace is often the enemy of justice."¹⁰ Interveners are frequently faced with the choice of reaching peace agreements that, on one hand, end the violence and save lives, and on the other hand, prosecute those that may have committed particularly heinous crimes, such as systematic rape, torture and forced disappearances. Additionally, there may be risks of restarting the conflict, particularly in cases where a mutually hurting stalemate does not exist.¹¹ As Ruth Wedgwood, director of the international law program at Johns Hopkins University's School of Advanced International Studies states: "One must recognize that militaries can still attempt confrontation, holding local democracies hostage, making plain what the cost of any prosecution may be."¹²

Unfortunately, the negotiations in Rome failed to account for the difficult issue of justice vs. peace. One counter argument made by several authors states that the existing legal situation does not allow for the possibility of respecting amnesties and uses the Amnesty International (AI) assessment of 1997 as a basis for their con-

clusion.¹³ The AI document states that “national amnesties and pardons which prevent the emergence of the truth and accountability for serious violations of humanitarian law in international and non-international armed conflict are inconsistent with the duty to bring to justice those responsible for such crimes.”¹⁴ This argument appears to imply that it would be better for the killings, rapes, and torture to continue as long as, when it is over, those responsible are brought to justice, either within a national truth commission procedure or by the use of force through the ICC.

Authors such as Gerhard Hefner, a member of the Austrian delegation to the Rome Conference and a current member of the International Law Commission, go a step further. He suggests that the Pre-Trial Chamber will have the power to decide how to balance the individual victims’ interests and the gravity of the crime against the more general interest of justice. From this perspective, the judges will be expected to decide “whether the interests in ensuring conciliation and a smooth transition of power by not instituting proceedings will override the interests of those seeking justice without regard to (shortsighted) political necessities.”¹⁵

Yet, it seems difficult to envision that the ICC can succeed where its predecessors and other international bodies have failed. One need only look at how the United Nations bungled the peace-keeping mission in Rwanda or the negotiation process for the brutal civil war in Burundi to have significant objections to the overly idealistic (from a legal perspective) and simplistic argument that lawyers know more about the inner workings and historical context of a given conflict than anyone else. (In the case of Burundi, for example, there were no fewer than nineteen different parties at the negotiating table.¹⁶ The complexities involved in negotiating peace settlements such as Burundi’s are immense. But the desire to make the peace settlement completely just makes the process nearly hopeless.)

Overall, the counter arguments put forth fail to acknowledge the lessons taught by the most bitterly fought ethnic conflicts of our time. As Zartman notes, “a conflict resolution that perfectly combines peace and justice is as rare as other moments of perfection in human action.”¹⁷ However, Gerhard Hefner, Kristen Boon, Anne

Rübsame and Jonathon Huston appear to imply that a balance between the two is not only realistic, but a necessary condition. Still, the decades of experience of Zartman and other conflict resolution experts indicate that justice must at some point be sacrificed to achieve the greater aim of halting violence and achieving a lasting peace. Moreover, no international body or court ought to then assess, post-agreement, whether or not that agreement achieves an adequate or acceptable level of justice. If the ICC started to review peace agreements for a proper balance of justice and peace, it could be extremely difficult for war-torn states to reach an acceptable peace accord in the first place. We should not, as the AI report suggests, pursue justice at all costs, particularly if it sacrifices peace in the long run.

The Role of U.N. Security Council

Under the U.N. Charter, issues relating to international peace and security are the strict domain of the Security Council. Neither the General Assembly nor any other body may make recommendations or take action on these matters when the issue at hand is on the Security Council's agenda. Moreover, the Security Council frequently acts in situations where international law is vague or still evolving. Curiously, there is hardly any role carved out for the Security Council in the Rome Statute.¹⁸ Proponents argue that the Security Council can refer cases to the ICC under Article 13(b) of the Rome Statute and that the Security Council has the authority to suspend the activities of the ICC. However, the statute requires that the Security Council renew its suspension of ICC actions every twelve months, even if a pending matter may have serious consequences on peace making efforts in a particular conflict.¹⁹ While this may appear like a mere formality, given that the Security Council's membership rotates every twelve months, it seems very likely that every time the Security Council needs to vote on the suspension, it could be dealing with ten new members. Noting the difficulty the United States had in convincing the Security Council that it should act to enforce its own resolutions regarding the disarmament of Iraq from September through October 2002, going through the process of renegotiation

every year could jeopardize existing arrangements. The Rome Statute also limits this authority by forbidding the suspension of a case for more than twenty-four months, further restricting the Security Council's role.²⁰

A further complicating factor is the Security Council's ability to vote down a motion to send a case to the ICC, even though the ICC prosecutor, with authority to act in complete independence, still can take action on the matter.²¹ While the prosecutor may eventually be challenged and investigations blocked by the Pre-Trial Chamber, the actions of the prosecutor could disrupt a delicate negotiation process and damage an opportunity for a cease-fire or achievement of a peace accord. Marc Grossman, the U.S. Under Secretary for Political Affairs notes that the power given to the ICC prosecutor eliminates the existing system of checks and balances and essentially usurps the authority of the Security Council.²²

A final point, noted by Wedgwood, addresses the question of the ICC's legal authority to limit the power of the Security Council. Wedgwood states that Article 103 of the U.N. Charter "gives primacy to the Charter over any other treaty obligations," and that a precedent has been set by past Security Council actions relating to matters of international peace and security.²³ Therefore, it is possible that the compromises reached in Rome may be in direct violation of the U.N. Charter.

The creation of the ICC would have been a significantly more productive process if more thought had been given to the role of the Security Council before the treaty was signed. As Wedgwood notes, five weeks of debate (the length of the Rome Conference) hardly seems enough time to decide such a complex and critical issue.²⁴ The large number of Security Council sponsored actions, particularly in peacekeeping operations, over the past ten years reflects the need to maintain the security apparatus established under the U.N. Charter. The current Iraqi crisis underscores the need for the credibility of the Council to be preserved. If it is continually undermined, or its authority diminished, the risk of irrelevance will become very real.

Inclusion of Aggression as a Crime

There was considerable debate at the Rome Conference about the inclusion of aggression as a crime. Even well-known human rights groups, such as The Lawyers Committee on Human Rights, disagree with the inclusion of aggression as a crime. Their main argument is as follows: There is currently no legally binding definition of aggression for the purposes of determining individual responsibility.²⁵ While many point to the definition offered in United Nations General Assembly (UNGA) Resolution 3314 from December 1974, this definition of aggression is concerned with state actors, not with individuals.²⁶ This fact supports the call for the Security Council's role to be more clearly defined, as the Security Council has the responsibility for dealing with matters of aggression between states.²⁷ However, if one attempts to apply the U.N. definition to an individual or a terrorist organization such as al Qaeda, the issue becomes more complicated. Attempting to prosecute individuals regarding a crime of aggression would be a highly political and subjective affair not exactly following the high moral and legal standard for a just and fair prosecution.

Moreover, according to the Lawyers Committee, "the mechanism for establishing accountability for aggression under the draft statute would undermine the independence of the court."²⁸ According to Article 10 (2) of the statute, the court cannot review a complaint unless the Security Council has determined that an act of aggression has been committed by the state involved in the complaint. This begs the question as to whether or not the ICC could find an individual 'not guilty' of aggression given the Council's determination.²⁹ In other words, if the Security Council finds a state guilty of aggression, the court would be hard pressed not to find the individual or individuals responsible for the aggression guilty. The ability of the accused individuals to receive a fair trial would thus be severely limited.

Wedgwood makes a more radical argument, suggesting that the crime of aggression was put in the final text merely to gain support of Southern Hemisphere states and that the common belief is

that it would be impossible to get seven-eighths of the Rome Treaty parties to agree on a common definition of aggression. Rather, she argues that it was simply a matter of goodwill and that the court will never hear complaints of aggression.³⁰ If this is true – her cynicism aside – incorporating such a controversial crime into the statute calls into question the credibility of the treaty itself. Such an important institution ought to be founded on more concrete principles than simply goodwill, especially given the principled and idealistic arguments put forth by many proponents of the court.

U.S. OBJECTIONS

The objections of the United States to the ICC form a major part of the current academic debate on the court's viability. The most prominent issues address universal jurisdiction, potential abuse of the court and the length of the consideration period for treaty amendments.³¹

Universal Jurisdiction

One of the key U.S. objections concerns the concept of universal jurisdiction. The ICC is the only international treaty or covenant that covers sovereign nations' citizens who have not ratified the treaty. The U.S. government argues that the ICC, or any international body, cannot legally create an international institution that "can exercise powers in relation to nationals of states that are not party to the arrangement."³² This basic principle implies that states are not obligated to take part in any international body. From this perspective, the ICC statute appears to run counter to this principle.

While several treaties have used universal jurisdiction for enforcement purposes – such as those designed to combat terrorism – this provision has typically been reserved for national courts and between treaty parties. Wedgwood argues that the use of universal jurisdiction has been "measured," not only for criminals, but also in the operational law of war.³³ She notes that neither the four protocols of the Geneva Conventions of 1949 nor the Hague regulations

directly grant universal jurisdiction and therefore the ICC statute creates a form of universal jurisdiction that is entirely new.³⁴ Interestingly, the European Court on Human Rights operates like other international bodies; its authority only covers states that are party to the treaty.

One could argue that the Ad Hoc tribunals, such as the special tribunals created for Yugoslavia and Rwanda, were international institutions established without the consent of either nation. However, there is a critical difference. First, the special tribunals were created by the U.N. Security Council under the powers granted under Chapter 7 of the U.N. Charter.³⁵ Since both nations were parties to the U.N. Charter, and decisions by the Security Council are binding on member states, these states were subject to the tribunals, with or without their explicit consent.³⁶

One could argue that the ICC was created by "an act of international lawmaking by virtually all states."³⁷ Yet many other treaties created by virtually all states are not legally binding, nor are those states' citizens subject to their jurisdiction. Even signing a treaty or covenant does not make a state legally bound to its stipulations. Only when a treaty is *ratified* does it become legally binding by the signatory, and only after it has been ratified by a minimum number of states. In the case of the ICC, there were sixty ratifying states. Changing the treaty acceptance procedure sets a new and dangerous precedence.

The United State's most forceful objection to universality concerns the strain it may place on American military engagement around the world. The U.S. position as the world's policeman places it in a difficult position vis-à-vis the ICC. Take, for example, the 1999 NATO action in Kosovo and the recent action in Afghanistan, both of which highlight the complexities of modern warfare. As Wedgwood points out, whether a war is just or not is a separate issue from whether the means are just.³⁸ Thus, in a more unpopular war, accidents or the limits of the use of justifiable force may be turned into larger legal quarrels.

Thomas W. Smith recently elaborated this point in an article on the use of high-tech weapons and infrastructural violence. In the

article, he points to the potential legal complications regarding military strategy in the 21st century. He questions the legitimacy of targeting infrastructure such as roads, bridges and electricity grids in warfare, as well as the limits of the destruction.³⁹ The Kosovo action calls this out even more, as NATO had to limit types of munitions and fly at certain altitudes. Had the conflict been less popular, or wholly unpopular, could the U.S. military planners and NATO joint command have been brought before the ICC? These questions are not insignificant given the potential for future, more asymmetrical conflicts the United States may be involved in over the next two to three years. Thus, the existence of the ICC in its current form could actually act as a deterrent *against* humanitarian interventions that could save millions of lives.

Potential for Abuse

The U.S. objection regarding abuse is directly related to its objection to the court's universality. The United States takes issue with the lack of checks and balances to ensure that prosecutions are just.⁴⁰ Without such protections, for example, there exists a potential for politicized prosecutions of U.S. soldiers participating in peacekeeping efforts. Normally, under U.N.-sponsored peacekeeping actions, the United Nations establishes an agreement with the host state, known as a Status of Forces Agreement (SOFA) that exempts its peacekeepers from criminal jurisdiction. In other words, soldiers have basic immunity from prosecution in the court system of the host state. These arrangements are covered under the Convention of the Privileges and Immunities of the United Nations, which provides immunity from prosecution for U.N. officials and agents.⁴¹

In situations where these arrangements do not exist, the states contributing troops make agreements with the United Nations that stipulate the contributing states' jurisdiction over the troops they contribute.⁴² However, the ratification of the Rome Statute now exposes peacekeepers to potentially malicious prosecutions. The Statute, in effect, conceptually creates a new universal jurisdiction as mentioned in the previous section.

While it would appear that the United States is no more susceptible to this than other nations, the United States is currently the most powerful and visible actor in the international arena, thus exposing its citizens and soldiers to the jurisdiction of the court on a broader basis than most other states. The action in Kosovo is an excellent example of an incident in which the United States took action, along with its NATO allies, despite objections from several European nations, most notably Germany and Russia. Given the loose definition of 'aggression' mentioned earlier, could U.S. actions have been considered aggression under the Rome Statute? While most experts view the NATO action as justified in attempting to protect the Kosovar Albanians from ethnic cleansing and other atrocities, prosecutors under the Statute were granted the right to initiate their own investigations and indictments, *propri motu*.⁴³ With ninety incidents of civilians being killed in the NATO bombing campaign, is it not possible, the United States argues, that an overzealous prosecutor might target American forces or individual officials?

Proponents of the Statute argue that this is an extremely unlikely scenario, first, because the court and its prosecutors will be focused on the most heinous of crimes as defined by the Statute. However, aggression is one of those crimes. With this vague definition and anti-American sentiment on the rise, it appears that this scenario could be more likely than proponents care to admit.

Proponents also point to the fact that the prosecution must first be approved by the Pre-Trial Chamber of the Court, which consists of three judges.⁴⁴ This plurality of opinions, coupled with the principle of complementarity, would prevent such cases from proceeding and actually being heard by the court. While this may be true, damage could be done to the cohesiveness of public and political support for a humanitarian military intervention if cases investigated by a prosecutor were made public. In the Kosovo intervention, the NATO allies were often at odds over issues of targeting and the types of munitions to use, as well as civilian casualties, among others. Further, there were significant anti-NATO protests across Europe, particularly in Germany.⁴⁵ Had the ICC existed then and a prosecutor began an investigation, it could have effectively splintered

the Allies' resolve and the intervention may have failed to achieve the success many claim it was today.⁴⁶

The U.S. fears about this aspect of the Court's potential abuse were reinforced after the NATO air campaign in December 1999, when a group of Russian legislators and legal experts instigated an investigation of NATO allies committing war crimes in Yugoslavia under the International Criminal Tribunal for the former Yugoslavia (ICTY). While the case was not pursued, it indicated the potential for abusive prosecutions, particularly before a court not covered under the auspices of the U.N. Security Council.⁴⁷

However, the United States has taken the step to negotiate individual immunity agreements for its soldiers with each European state. While the United States successfully convinced many states to agree on immunity arrangements, several states, such as Croatia, refused to sign any such arrangements. Additionally, the European Union threatened states that did not wish to enter into these arrangements with the possible delay of their chances at E.U. accession. This placed further pressure on the status of the immunity arrangements.⁴⁸ At the time of this writing, the impact of these states' refusals to sign immunity agreements remains unclear.

Treaty Amendments

The final objection to the Rome Statute is the fact that treaty amendments will not be considered or discussed for seven years. Moreover, while the statute stipulates that amendments to the treaty's scope of crimes will apply to signatories and non-signatories alike, if a state party who signed the treaty votes against the amendment, the changes will *not* apply. Non-signatories may then be held to a broader scope of crimes than the signatories themselves. While some argue that this is an incentive to sign the treaty, this logic fails to incorporate the practical political realities for nations where public support for the ICC is limited. It also ignores the impacts of overseas military commitments that may complicate the ratification process,⁴⁹ notwithstanding the fact that no other treaty mechanism exists that works in the manner as the Rome Treaty.

The seven-year waiting period for any amendments is particularly problematic for the still-undetermined definition of aggression, as noted in the example of the NATO air campaign in the previous section. The inability to make adjustments to the treaty will make it difficult, if not impossible to obtain U.S. acceptance and ratification of the Statute. While the United States continues to play a critical role in the actual enforcement of ICC decisions, its acceptance or rejection of the ICC could determine the court's future.⁵⁰ While this is not to say that the treaty should be changed at the whim of the United States, it does indicate that it should warrant further negotiation and flexibility to reach mutually agreeable compromises.

Furthermore, the proscription of possible amendments is baffling, given that even staunch supporters agree that the ICC is a work in progress and will evolve over time. Clarification of definitions, problems of enforcement – particularly if a state chooses to ignore the rulings of the court – among other issues, will be undoubtedly refined over time. To limit this process by time and/or by its applicability appears to make it more difficult for some states to join the ICC.

Interestingly, little has been written in response to such criticisms. In their response to Wedgwood's article on the American view of the ICC, Hafner and his colleagues fail to mention the question of amendments.

CONCLUSION

As stated at the outset, there are several significant challenges that confront the new ICC as it begins its first year of operation. These are real challenges that could affect the very future of the court. In particular, the issues regarding the role of the Security Council, the definition of aggression, and the potential for abusive prosecutions threaten not only the credibility of the court but the future of humanitarian interventions. While the world desperately wants to avoid another situation such as occurred in Rwanda in 1994, keeping the Rome Treaty in its current state could actually encourage more atrocities. World leaders may hesitate to intervene or avoid

intervention altogether and allow the various types of heinous crimes to be committed that the court was created specifically to deter.

Unfortunately, there has been little progress recently in resolving the inherent flaws of the ICC Statute. Worse, in the past few years it has become popular to marginalize U.S. policies or to characterize its actions as 'unilateral,' 'hegemonic,' and 'exceptionalist,' rather than actually listen to and internalize the U.S. objections and negotiate a compromise. To this author, it appears all too easy to label the United States as uncooperative and to publicly denounce its opposition to the ICC as a strand of unilateralism. These arguments may hold some merit, although not from the perspective of U.S. action, but through the *manner* in which it executes its policies. Many critics point to the U.S. departure from the Kyoto Treaty on greenhouse gas emissions and the Anti-Ballistic Missile (ABM) Treaty as ammunition to support their case that the objections to the ICC are of the same nature. Yet this argument conflates radically different, highly politicized decisions in which the United States voiced valid concerns.⁵¹

Would it not be significantly more productive to engage in discussions and insert more flexibility into the amendment process to allow refinements to the treaty? It appears that tightening up the treaty's language would not only facilitate the ratification by member states who have yet to do so, but would also strengthen the agreement as a whole which in turn would bolster the credibility and enforceability of the court's judgments. The treaty laid an excellent foundation from which to build. It is now time to finish the job properly and to construct an ICC that will function properly within the current parameters of international law and the global security architecture.

Notes

¹ "Establishing an International Criminal Court: Major Unresolved Issues in the Draft Statute," *Lawyers Committee for Human Rights*, May, 1998, 2.

² Ruth Wedgwood, "The International Criminal Court: And American View,"

- European Journal of International Law*, 10 (1999): 94.
- ³ *Rome Statute of the International Criminal Court*, Article 35 and 36, <<http://www.un.org/law/icc/statute/romeofra.htm>>
- ⁴ "Establishing an International Criminal Court," 8.
- ⁵ Wedgwood, 94.
- ⁶ Wedgwood, 94.
- ⁷ *Lawyers Committee*, 5.
- ⁸ *Lawyers Committee*, 5.
- ⁹ I. William Zartman, ed., *Peacemaking in International Conflict* (Washington: United States Institute of Peace Press, 1997), 15.
- ¹⁰ Zartman, 16.
- ¹¹ I. William Zartman, "Ripeness Revisited," *International Conflict Management at the End of the Cold War*, eds. Paul Stern and Daniel Druckman (National Academy of Sciences: 2000). Here, Zartman speaks about the concept of a mutually hurting stalemate where both sides in a conflict reach a point where the cost of continuing the conflict is too high, there is a way out of the conflict, and both sides act to take that way out. When a mutually hurting stalemate does not exist, as in Chile or Argentina, one side can be motivated to reignite the conflict. In this instance, amnesties could help alleviate one element that could spark a return to the conflict.
- ¹² Wedgwood, 96.
- ¹³ Gerhard Hefner, Kristen Boon, Anne Rübesame, and Jonathan Huston, "A Response to the American View as Presented by Ruth Wedgwood," *European Journal of International Law* 10 (1999): 111.
- ¹⁴ Amnesty International, "The International Criminal Court. Making the Right Choices – Part III, Ensuring Effective State Cooperation," (1997), Section IV, Paragraph 2, Item i.
- ¹⁵ Hefner et al., 112-113.
- ¹⁶ "The Mandela Effect: Prospect for Peace in Burundi," *CrisisWeb.Org* 2002 <<http://www.crisisweb.org/projects/Africa/Burundi>>
- ¹⁷ Zartman, 16.
- ¹⁸ Wedgwood, 97.
- ¹⁹ Wedgwood, 97.
- ²⁰ Wedgwood, 97-98.
- ²¹ Natalino Ronzitti, "Is the Rome Statute of the International Criminal Court a Real Breakthrough in International Law?" *The International Spectator* 33, (1998): 4.
- ²² Marc Grossman, Under Secretary of Political Affairs, American Foreign Policy and the International Criminal Court, Jan. 24, 2003, <<http://www.state.gov/p/9499>>
- ²³ Wedgwood, 98.
- ²⁴ Wedgwood, 98.
- ²⁵ *Lawyers Committee*, 9.
- ²⁶ UNGA Resolution 3314, (XXIX) defines aggression as follows: "Aggression is the use of armed force by a State against the sovereignty, territorial integrity or

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political independence of another State, or in any other manner inconsistent with the Charter of the United Nations, as set out in this Definition.”

²⁷ Wedgwood, 105.

²⁸ *Lawyers Committee*, 9.

²⁹ *Lawyers Committee*, 9.

³⁰ Wedgwood, 105.

³¹ The US has also objected to the first three items, but for clarity’s sake this paper has separated the more general objections from the US-specific objections.

³² Marc Weller, “Undoing the Global Constitution,” *International Affairs* 78 (2002): 702.

³³ Wedgwood, 100.

³⁴ Wedgwood, 100.

³⁵ Weller, 702-703.

³⁶ Marten Zwanenburg, “The Statute for an International Criminal Court and the US: Peacekeepers Under Fire,” *European Journal of International Law* 10 (n.a.): 130.

³⁷ Weller, 703.

³⁸ Wedgwood, 103.

³⁹ Thomas W. Smith, “The New Law of War: Legitimizing Hi-Tech and Infrastructural Violence,” *International Studies Quarterly* 46 (2002): 355-374.

⁴⁰ Weller, 703.

⁴¹ Zwanenburg, 127.

⁴² Zwanenburg, 129.

⁴³ Zwanenburg, 136.

⁴⁴ William S. Shepard, “Restraining Gulliver: American Exceptionalism and the International Criminal Court,” *Mediterranean Quarterly* 11 (2000): 66.

⁴⁵ Daniel L. Byman and Matthew C. Waxman, “Kosovo and the Great Air Power Debate,” *International Security* 24, (Spring 2000): 26.

⁴⁶ Gen. (Ret.) Wesley K. Clark, *Waging Modern Warfare* (New York: Public Affairs, 2001); Ivo Daalder and Michael E. O’Hanlon, *Winning Ugly* (Washington, D.C.: Brookings Institution Press, 2000) for accounts of the in-fighting and issues regarding European public opinion.

⁴⁷ Robert W. Tucker, “The International Criminal Court Controversy,” *World Policy Journal* 18 (2001), 78.

⁴⁸ William Pfaff, “The International Criminal Court, if forced to choose, Europe will ditch NATO,” *International Herald Tribune*, Aug. 17/18, 2002, 4.

⁴⁹ Wedgwood, 104.

⁵⁰ Wedgwood, 93.

⁵¹ David P. Calleo, *Rethinking Europe’s Future* (Princeton, NJ and Oxford: Princeton UP, 2001), 326.

WHAT'S WRONG WITH CONTAINMENT?

By David Hallisey

The United Nations Security Council “... *decides to remain seized of the matter.*” Such are the concluding words of United Nations Security Council Resolution (UNSCR) 1441, unanimously approved in November 2002, to address the “... threat of Iraq’s non-compliance and proliferation of weapons of mass destruction ...”. But this is by no means a first. Remaining “seized of the matter” is also the conclusion of UNSCR resolutions 678, 686, 687, 688, 707, 715, 949, 986, 1051, 1060, 1115, 1134, 1137, 1154, 1194, 1205, and 1284, which span more than a decade of diplomacy. Other common language resonating throughout these resolutions point to Iraq’s actions that “threaten international peace and security” and call for Saddam Hussein to “unconditionally agree,” allow “immediate, unconditional and unrestricted access,” and provide “immediate, complete and unconditional cooperation.” Additionally, the resolutions repeatedly “condemn” or “deplore” Iraq’s “clear and flagrant violations,” “continued violations,” “totally unacceptable contravention [of its obligations],” and, as far back as 1998, warn of “the severest consequences” for further non-compliance. As for “material breach,” this was already acknowledged in UNSCR 707 in August 1991, just

four months after the signing of the cease-fire agreement. In total, there are seventeen binding Security Council resolutions on this recurring theme, thirty statements from the president of the U.N. Security Council regarding Saddam Hussein's violations, and an additional twenty-eight resolutions regarding U.N. sanctions.¹ The U.N. Security Council appears convincingly "seized of the matter." But seized to what, exactly?

Reading through the resolutions provides a framework of historical developments in Iraq, as well as an interpretation of future courses of action. For instance, there is no doubt that the Security Council believes Iraq, in its current state, poses a grave threat and that it must be disarmed. That has never been nor the issue at hand. What is in question now is how to achieve disarmament.

Options in Iraq are generally reduced to diplomacy or the use of force. The first option calls for continued containment, while the second calls for military intervention. It is easy to question and criticize the second option, as it carries with it the almost certain cost of human lives and, simultaneously, the uncertainty associated with the 'fog of war.' In contrast, the first option appears to avoid such costs, as it is crafted to rely on means such as deterrence, inspections, sanctions, and international pressure to achieve its aims – in this case, the disarmament of Iraq. These tools of diplomacy are usually successful, namely because they are backed by the credible threat of force in the event of non-compliance. Thus, the first option is able to find legitimacy and effectiveness vis-à-vis the second. In cases where diplomatic efforts fall short of their aim and are not reinforced with action – as is currently the situation in Iraq – then the costs of sustaining such efforts can prove severe.

What exactly are the costs of continued containment in Iraq? Certainly there are basic economic costs to consider, but there are also other, less tangible (and yet more crucial) prices to pay, as well. Specifically, there are substantial opportunity costs of sustaining a stalled policy, coupled with severe credibility costs of inaction. Before discussing each, however, it is helpful to understand the nature of diplomatic containment in Iraq and its shortcomings to date.

CONTAINMENT

The policy of containment in Iraq over the last twelve years centers on three principles: unfettered access to Iraqi weapons by U.N. weapons inspectors to provide transparency, economic sanctions to induce compliance, and a military presence to enforce a no-fly zone. These three pillars, taken individually or collectively, are not necessarily a failure, but in over twelve years of application (in varying degrees), they have exhausted their usefulness and have not succeeded in achieving their ultimate goal of disarmament. As containment continues to miss the mark, both tangible and intangible costs continue to mount.

INSPECTIONS

At the end of the Gulf War in 1991, the cease fire agreement (UNSCR 687) called for the disarmament of all of Iraq's Weapons of Mass Destruction (WMD) and medium to long-range ballistic missiles (missiles with a range greater than 150km), both of which Saddam employed in the past against his own population, as well as against his neighbors in the region. This disarmament was to be achieved through an unprecedented level of access to Iraqi military sites, personnel, and records to ensure full compliance, as well as to prevent future rearmament. The need for such unprecedented access, however, placed the success or failure of the inspections directly in the hands of Saddam, for he was the one who ultimately had to provide the requisite cooperation. Armed with such unilateral power, it is no surprise that Saddam's 'unconditional' compliance was never forthcoming. Compliance, therefore, is the principal weakness of this first pillar of containment.

Security Council resolutions and warnings for Iraq to provide access to weapons sites, presidential palaces, scientists, and documents frequently passed unheeded or met with delays and resistance. In many cases, Iraq's interpretation of 'unconditional cooperation' went beyond mere hindrance and included hostile threats and use of force, such as firing warning shots, or attacking U.N.

inspectors taking photographs.² Even so-called improvements in cooperation do not reflect the unconditional level called for over the last twelve years. Scientists are yet to be interviewed outside Iraq with their families and valuable reconnaissance flights are negotiated, rather than granted.

In 1998, Saddam ceased all cooperation with inspectors and forced them to leave Iraq. Therefore, for more than four years, Iraq was left without any monitoring or accounting of its weapons programs. Prior to leaving the country, the chief weapons inspector at the time, Richard Butler, was confident of the existence of chemical and biological weapons that had yet to be destroyed, including 400 biological weapon-capable bombs; 2,160 tons of growth media capable of producing 26,000 liters of anthrax (three times the amount Iraq declared); 1,200 liters of botulin toxin; 5,500 liters of clostridium perfringens (sixteen times the amount Iraq declared); 15,000 artillery shells capable of delivering nerve agents; 550 shells filled with mustard agents; and 30,000 empty munitions that could be filled with chemical agents.³ To believe that Saddam subsequently abolished these programs and weapons on his own accord (or that he intends to now) is purely wishful thinking. Even Hans Blix, in his recent reports to the Security Council, shares the same concern with regard to Iraq's claimed unilateral destruction of biological agents.⁴ Commenting on the overall inspections process, Butler stated, "Iraq's record with dealing with inspectors ... was very bad. Iraq cheated and deceived the inspectors, and it's not easy to think that they would behave differently in the future. The new inspectorate, which was established to replace the previous one, has much weaker powers than those under which I operated. There is, therefore, considerable doubt ... that future inspections would be very effective."⁵

Lacking true cooperation, inspections cannot find what Saddam does not allow to be found. Although those who champion the merits of these inspections point to the large quantities of arms destroyed under the auspices of inspectors, in reality, the greatest gains in this direction are a direct result of Iraqi defectors and intelligence work. These sources provided critical information that then led inspectors to their 'goal.' In other words, inspectors cannot dis-

arm Iraq, they can simply oversee it with a cooperative regime.

Inspections and verification do have their usefulness when operating under supportive governments. They helped achieve successful disarmament in cases such as South Africa, Ukraine, and Kazakhstan, but these models all had cooperative agents at the helm, not Saddam Hussein. An International Atomic Energy Agency (IAEA) report from 1994 summarizes South Africa's nuclear disarmament and verification by stating, "... the results of extensive inspections and assessment, and the transparency and openness shown, have led to the conclusion that there were no indications to suggest that the initial inventory is incomplete or that the nuclear weapons program was not completely terminated and dismantled."⁶ Unfortunately, in over twelve years, the IAEA has never come close to such encouraging language in reporting on Iraq's programs.

The United Nations should not be faulted for initially adopting a robust inspection policy in 1991, but after countless violations, conditional demands and a persistently disingenuous regime, the international community is long overdue in changing its course. When cooperation is non-existent, inspections are non-effective in disarmament. In 1991, some believed the inspections process should take only a matter of months, assuming the minimum levels of cooperation. Twelve years later, it continues with merely relative or incremental declarations of 'progress' and 'achievement' in cooperation, but still no transparency and, therefore, no disarmament.

SANCTIONS

The second pillar of containment is in the form of UNSCR 661, adopted in August 1990, which imposed sanctions on Iraq after its invasion of neighboring Kuwait. Sanctions, however, were not a tool with which the United Nations had a great deal of experience, especially in understanding near and long-term effects. Accordingly, in March 1991, the United Nations dispatched an inter-agency mission to look into the humanitarian needs of Iraq, especially in light of its eight-year war with Iran that concluded in 1990 and the Gulf War that ended just the month before. The mission concluded: "...

the Iraqi people may soon face a further imminent catastrophe, which could include epidemic and famine, if massive life-supporting needs are not rapidly met.”⁷ In response, the United Nations offered programs for Iraq to sell limited quantities of oil to generate revenues in order to meet its domestic needs. The government of Iraq repeatedly declined these offers. Eventually, the government agreed and an “oil for food” program was implemented in December 1996 after more than five years of unnecessary hardship on the Iraqi people.

Although this program originally contained caps and quotas on oil sales, today there is no limit to how much oil Iraq is allowed to sell under ‘oil for food’ in order to meet national requirements. Additionally, the term ‘oil for food’ may be misleading, as the program includes provisions not only for food, but also health, transportation, oil production, water and sanitation, agriculture, electricity, telecommunications, education, residential construction, internally displaced persons (IDPs), and even land mine clearing operations. Despite the program’s comprehensive reach, containment through sanctions is under heavy criticism for causing suffering of innocent Iraqi citizens. The number of deaths related to sanctions is disputed and varies from the hundreds of thousands to over one million, but the controversy is enough to diminish international support for the program.

On the other hand, many believe that Iraq has the resources to control needless suffering and the United Nations insists that sanctions can be lifted once Iraq demonstrates compliance with previous enacted resolutions, something which has not happened to date. Additionally, between 1993 and 1998, Iraq covertly negotiated contracts with more than 500 companies for a variety of prohibited items, including rocket motors, fuels, and gyroscopes.⁸ Meanwhile, several countries such as Russia, China, Germany and France have reestablished more normal business relations with Iraq outside of the rules of the sanctions. Such unraveling tends to discount calls for alternatives such as ‘smart sanctions, in which the international community would voluntarily police itself from trading prohibited items with Iraq.

More important, however, is Saddam’s own ability to sub-

vert the sanctions for his personal gain. Most notable is Iraq's ability to sell oil outside the U.N. program and, therefore, outside the oversight and controls of appropriating revenues where they are needed most. This is accomplished by smuggling the oil out of Iraq through well-established land and sea routes. Like other obstacles in the Iraqi issue, this is not a new problem. It began very early in the containment process and has endured for more than a decade.

According to State Department figures, illegal oil flow via sea routes known as the 'smuggler's superhighway' averaged approximately 100,000 barrels per day in January 2000.⁹ The figures tend to rise and fall with various factors, but the revenues generated from this oil go straight into Saddam's treasury. According to a BBC report, these revenues (from sea smuggling alone) were estimated to be as much as one billion dollars a year.¹⁰ Additionally, Saddam's regime is well known to have sold U.N.-approved oil contracts with an unapproved premium attached, as well as reselling humanitarian goods with a significant mark-up.

Unfortunately, there is little evidence to suggest that Saddam is using any of these extra revenues to help the humanitarian situation in his country – a situation in which over half the population in rural areas does not have access to safe drinking water and 70 percent of children's deaths are due to diarrhea or respiratory problems, both of which are easily preventable.¹¹ There is evidence, however, that he is spending on lavish palaces and personal aims, including dozens of newly constructed "villas," complete with gold fixtures, imported marble, man-made lakes, waterfalls, and zoos.¹² Some of these palaces are reported to be as extravagant as Versailles. How does an economy such as Iraq's support such luxuries while the population suffers? This situation can only be achieved by Saddam's direct and indirect undermining of the Security Council's sanctions program.

The net result is that today, the U.N.-mandated sanctions have more to do with unintended consequences for the Iraqi people and less to do with achieving their aim of coercion to disarm.

NO-FLY ZONE (MILITARY PRESENCE)

A containment policy for Iraq is often compared to keeping Saddam in a box. Inspectors and sanctions help to disarm him in that box and as long as he is there, what harm can he do to international peace and security? As it turns out, quite a bit.

Immediately after the 1991 Gulf War, despite a battered army, a U.N. footprint in the country, and economic sanctions in place, Saddam was still able to use his military to repress ethnic groups in the north and south of Iraq – namely the Kurds and Shiite Muslims. U.N. Security Council Resolution 688 was issued in April 1991 to demand an end to this repression. As a result, a third pillar of containment, a U.S./U.K.¹³ enforced no-fly zone in northern and southern Iraq, was installed. The no-fly zones prevent Iraq from flying aircraft or helicopters north of the thirty-sixth parallel or south of the thirty-third parallel, an area encompassing approximately 62 percent of Iraqi territory,¹⁴ especially where ethnic groups are concentrated. Overall, the northern and southern no-fly zones, patrolled on a daily basis for over ten years, have proved helpful in preventing Saddam from mobilizing his military against ethnic groups or neighbors, but cannot prevent other means of repression, such as police brutality, or security threats like those stemming from weapons of mass destruction.

Although a helpful tool in containing Saddam, the no-fly zones do not induce disarmament. Additionally, these U.S./U.K. military operations are wrought with controversy and lack international support. The reason for this controversy is that in implementing the no-fly zones, the United States refers to UNSCR 688, which demands that Iraq end repression of its population, as well as pointing to the cease-fire agreement (UNSCR 687), which forbids Iraq from interfering with allied air operations over the country. However, because UNSCR 688 was not passed under Chapter VII (peace and security) provisions, other countries do not hold the same interpretation that military action is permitted to enforce its terms.¹⁵

As a result, Saddam exploits this lack of international support and is emboldened to provoke attacks against U.S. and British

aircraft on patrol. When fired upon, the pilots fire back at the anti-aircraft batteries on the ground, invoking rights of self-defense. If the no-fly zones were fully backed by the United Nations, however, firing upon the aircraft would be akin to an act of war, rather than just another 'incident'. These incidents occur on such a regular basis that they are now routine. In the first seven months of 2001 in the southern no-fly zone alone, there were as many as 370 provocations.¹⁶ In essence, an entire generation of Navy and Air Force fighter pilots has been groomed under a decade of daily enforcement of the no-fly zones. Although no American or British aircraft have been lost to date, the risk is always present and increases with time – highlighting, again, the dangerous costs associated with the interpretation of words.

Despite containment, Saddam still finds sufficient maneuvering room with respect to inspections, sanctions and the no-fly zone through acts of propaganda, repression, defiance and even terrorism. In fact, in over ten years, Saddam has managed to violate every measure of the original cease-fire agreement of 1991. These measures range not only from disarmament issues, but also the return of Kuwaiti prisoners of war and information on unaccounted for or displaced persons. An Amnesty International report ranks Iraq as the worst country in the world in terms of missing persons.¹⁷ Furthermore, in 1994, Saddam tried to mass troops again near the Kuwaiti border, similar to his build up prior to the 1990 invasion of that country, and in 1993, his intelligence service was linked to an assassination plot against George Bush when the former U.S. president was visiting Kuwait. More recent evidence suggests continued ties to terrorism, the most open of which is his well-advertised U.S.\$25,000 payments to families of Palestinian suicide bombers.

Additionally, for almost 30 years, Saddam has sought to make Iraq a nuclear-armed state, able to assert sweeping power over the entire Middle-East region. Within the last twelve years, under closer scrutiny, inspection and supervision than any country in history, the IAEA and UNSCOM have repeatedly underestimated or grossly miscalculated Iraq's nuclear weapons program and progress, thanks to Saddam's lack of cooperation. Simply stated, U.N. inspectors do not

have an accurate picture of Saddam's nuclear, chemical or biological programs, nor will they be able to achieve it through containment.

COSTS

Saddam's box, therefore, is not airtight. In fact it is riddled with holes in that inspectors require an ever-elusive degree of cooperation, sanctions are circumvented and undermined, and the no-fly zone lacks U.N. support and legitimacy. In such a scenario, containment does not equate to compliance and disarmament – not in twelve years of trying, nor in the future. Using resolutions and containment alone, the United Nations cannot inspect, coerce or deter Saddam into compliance and so until the United Nations is willing to enforce its words, or as long as Saddam remains in power, a stalemate ensues. The Clinton administration recognized this dilemma, as did the Congress, when it adopted an official policy of regime change in Iraq, titled House Resolution 4655, "The Iraqi Liberation Act of 1988." Perhaps the more appropriate questions are not, "Why Iraq?" and "Why now?" but rather "What next?" and "Why this long?"

In Iraq, continued containment cannot achieve its aims. Instead, such a policy erodes the cohesiveness of the international community. On the whole, this policy requires paying out over time the cost of lost opportunities and the cost of lost credibility, exacting a near unbearable toll on the future.

LOST OPPORTUNITIES

For the last half of the twentieth century, the United States maintained an interest in ensuring stability in the Gulf region due to the geographic significance of the area and the world's need for secure oil supplies. Prior to 1991, this usually amounted to an "over the horizon" presence – out of the way, but close enough to respond to a crisis. However, since Iraq's invasion of Kuwait, and at the request of other nations in the region, the United States built up sizeable military forces in countries such as Saudi Arabia, Bahrain and

Kuwait itself. The United States also committed to maintain at least one Carrier Battle Group in the immediate area, 365 days a year. These forces provide regional security for many of Iraq's neighbors and also serve as a means of enforcing the pillars of containment. But what would these forces be doing if there were a previously disarmed and non-threatening Iraqi regime? It is hard to say, but having to provide security, deter aggression, and enforce the last twelve years of containment in the region might not have had the same priority or borne the same costs.

Perhaps a secure and peaceful Iraq could have yielded better or more productive engagement elsewhere in the world by both the United States and the international community. More proactive or timely attention in areas such as Chechnya, Somalia, Rwanda, Bosnia, Israel-Palestine, East Timor, the Kosovo, Kashmir, Columbia, Taiwan, China, Afghanistan, North Korea and even international terrorism are just a few worthy candidates from the last decade that come to mind. Thomas Barnett, a professor at the U.S. Naval War College, aptly explains that conflicts cannot be resolved without security and "security is [the United States'] most influential public-sector export." By this he does not mean arms exports, but rather "... the attention paid by [American] military forces to any region's potential for mass violence."¹⁸ Although the United States and the international community may not have the will or resources to engage in all situations, containment attention allocated to Iraq is attention unavailable elsewhere. This does not even mention where a previously disarmed Iraq might be today – years ahead of its current situation in progress, development, and rebuilding, as well as the prospects of its twenty-three million citizens living under repression and another four million living in exile.

Additionally, stationing troops in foreign countries (even as guests of the host government) is not always a popular policy, both at home and abroad. Therefore, the need to export security in this way sometimes comes with another cost worth mentioning: the cost of resentment. This was true at various times and in various places during the Cold War, and has received renewed attention recently in South Korea. The case of Saudi Arabia, however, is especially dra-

matic.

Saudi Arabia is the proclaimed guardian of the two holiest Muslim cities, Mecca and Medina. American forces operating from Saudi Arabia, whether providing security or containment, are an affront to many Arabs. In fact, a stated objective of Osama bin Laden (a former Saudi citizen) in the Sept. 11 terrorist attacks was to "... free the Peninsula from the blasphemous," referring to the approximately 5,000 U.S. troops stationed in Saudi Arabia. While these troops (who were put in place to contain Iraq) may not have been the immediate cause for the terrorist attacks, there is an implied correlation and, therefore, an associated price that was paid.

LOST CREDIBILITY

Opportunity costs and trade-offs in Iraq are mostly speculative. What is not so unknown is the credibility costs associated with the last twelve years of chasing containment without achieving its aim. History has shown with the League of Nations that a lack of resolve or will to act is death to such an organization. Accumulating one U.N. resolution after another for more than a decade, despite language such as "condemn," "deplore," "totally unacceptable," or even "severe consequences" does not instill security. "Remain[ing] seized of the matter" does not create credibility. What does achieve this is a willingness to back words with action, when necessary. Without it, what incentive does any state have to comply with the United Nations? One need only look at the current Iraqi model for a recipe of how to obfuscate and buy time.

The loss of international credibility, reduced slowly and almost unnoticeably over a period of twelve years, adds up. Every time Saddam defies a resolution and is not held accountable, credibility is lost. Likewise, every oil smuggler who delivers his cargo from Iraq and every Iraqi missile fired at U.S. and British aircraft also erode credibility. Once lost, it is nearly impossible to restore. So why cannot more be done to prevent losing this precious commodity? An illuminating example of the complexities and challenges involved is seen in the 'smuggler's superhighway,' where multinational forces

battle to enforce U.N. credibility on a round-the-clock basis.

Since 1991, naval forces have engaged in continuous Maritime Interdiction Operations (MIO) in the North Arabian Gulf to stop, board, inspect, and seize (if necessary) all vessels entering and exiting Iraqi ports. However one problem is that the smugglers cannot be boarded or stopped at the source, inside Iraq, where it makes most sense to put a "cork in the bottle." Instead, multinational forces have to stand off, respecting Iraq's twelve nautical mile territorial limits, thereby giving the illicit tankers, barges, cargo ships and essentially anything that floats plenty of room to maneuver. In the past, the maneuver simply meant turning east and, after paying a protection fee to Iranian authorities, transiting the Gulf under cover of Iranian territorial waters. So, despite the fact that satellite imagery and other sources give queuing and verification of ships arriving at, loading in and departing from Iraqi ports, the smugglers remain virtually untouchable and off-limits unless they have to enter recognized international waters. The few that do, if caught, are at worst off-loaded of their illicit cargo at sea and turned back to Iraq to possibly try again another day. The only penalty is a loss of time and money.

Additionally, over the course of more than a decade, the stakes and risks the smugglers are willing to accept have escalated. Today, Gulf smugglers resort to marginally sea-worthy vessels, welding safety hatches and doors shut (to prevent access), sabotage and even intentionally scuttling or burning their ships to preclude seizure by multinational forces. This last act has become more common and has resulted in loss of lives (crewmembers as well as boarding teams) and ecological disasters in the Northern Gulf. The encouraging news is that in October last year, Iran stopped allowing the smugglers to use its territorial seas, thereby dramatically increasing the number of seizures. Unfortunately, the motivation for and duration of this change of policy is uncertain. Furthermore, in addition to, or in the absence of viable sea routes, the illicit oil also flows out of Iraq via trucks and pipelines where enforcement also depends primarily upon cooperation of neighboring states.

CONCLUSION

The United Nations cannot continue to stand on the crumbling pillars of containment with respect to Iraq. The costs of this twelve-year course of inaction have taken a toll. Unfortunately, other options are now equally unattractive or not viable. Containment is not capable of being reformed or reinforced today. Proposals for more inspectors and more time simply miss the point. Doubling or tripling the number of inspectors ignores the key ingredient of cooperation that is required. Furthermore, the United Nations does not need more time to "further condemn" Iraq's "flagrant violations;" it needs resolve to take the action that its multiple resolutions have called for already. Similarly, alternative ideas of 'smart sanctions' and voluntary enforcement are unrealistic when binding sanctions are ignored and circumvention is too profitable. Besides, is the lifting of sanctions and the policy of rewarding defiance the precedent the international community wants to set? Even a deterrence policy akin to the kind that won the Cold War does not work with a dictator who remains undeterred by threatening language, troop build-ups or even military action. Unlike the conservative leadership of the Soviet Union, Saddam is willing to take risks.

What is most important today is an international understanding and appreciation of the stakes in the current scenario. Genuine progress and, therefore, disarmament (read: the will of the international community) cannot be achieved without a fundamental change. That change should be resolve by the United Nations to abandon its twelve years of words and prepare for the action necessary to disarm Iraq. The opportunity and credibility costs of inaction in this case outweigh the potential costs of action.

Resorting to force as a last resort is a good motto, but it has run its due course in Iraq. Twelve years is not a rush to war. The current box built to contain Saddam also constrains the United Nations. For the United Nations this is a box of quicksand, which is not always quick, but terribly dangerous when one fails to recognize it, or stays too long. The more time that goes by, the harder it is to extract oneself.

Hopefully, the United Nations is not quite as “seized” as it professes to be.

Notes

¹ Full text versions of all UNSCRs and related documents are available at <http://www.un.org/documents/scres.htm>.

² See “White House Timeline on Iraq,” *The Associated Press*, 17 September 2002, detailing the history of efforts to obtain weapons inspections in Iraq. Significant incidents include: Iraqi personnel firing warning shots to prevent inspectors from approaching vehicles (June 1991); Iraqi officials confiscating documents from inspectors and ensuing a four day standoff at a declared site in which inspectors were not permitted to leave (September 1991); Iraq refusing to allow UNSCOM to use its own aircraft to fly into Iraq (January 1993); Iraqi escorts on board an UNSCOM helicopter trying to physically prevent the pilot from flying in its intended direction (June 1997); an Iraqi officer attacking an UNSCOM inspector on board an UNSCOM helicopter while the inspector is attempting to take photographs of unauthorized movement of Iraqi vehicles at a site designated for inspection (September 1997); UNSCOM inspectors witnessing and videotaping Iraqi guards moving files, burning documents, and dumping ash-filled waste cans into a nearby river (September 1997).

³ Joseph Cirincione, Jessica Matthews, and George Perkovich, “Iraq, What Next?” *Carnegie Endowment for International Peace*, January 2003, <www.ceip.org/Iraq>, 5-6.

⁴ Cirincione et al., 5.

⁵ “Richard Butler: Should the U.S. Attack Iraq?” *CNN Access*, Nov 28, 2001, <www.cnn.com>

⁶ “What Does Disarmament Look Like?” <www.whitehouse.gov>

⁷ “Oil for Food Programme: A Fact Sheet,” Office of the Iraqi Programme Oil-for-Food, February 2003, <www.un.org/depts/oip/background/fact-sheet.html>

⁸ Cirincione et al., 7.

⁹ International Information Programs, US Department of State, “Palaces and Oil Smuggling,” <<http://usinfo.state.gov/regional/nea/iraq/iraq99k.htm>>

¹⁰ “Iraqi Oil Smuggling Warning,” *BBC News*, Mar 24, 2000, <<http://news.bbc.co.uk>>

¹¹ Tony Blair, “Speech by the Prime Minister at the Labour Party’s local government,” Glasgow, 15 February 2003.

¹² Figures on the exact numbers of palaces or villas vary depending upon definition and size. See “How Many Palaces Hath Saddam?” <<http://slate.msn.com>>;

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"Iraq: Palace Intrigue," <<http://bulletin.ninemsn.com>>; and U.S. Department of State, International Information Programs, "Palaces and Oil Smuggling," <<http://usinfo.state.gov/regional/nea/iraq/iraq99k.htm>>

¹³ Originally, the no-fly zones included French aircraft, but their participation ceased after the first year.

¹⁴ "Iraq: Former and Recent Military Confrontations with the United States," Issue Brief for Congress, Congressional Research Service, The Library of Congress, Sep 6, 2002, CRS-2.

¹⁵ "Iraq: Former and Recent Military Confrontations," CRS-2.

¹⁶ "Iraq: Former and Recent Military Confrontations," CRS-6.

¹⁷ "Saddam Hussein's Refusal to Account for Gulf War Prisoners," <<http://www.whitehouse.gov/infocus/iraq/decade/sect6.html>>

¹⁸ Thomas P.M Barnett, "The Pentagon's New Road Map," *Esquire*, March 2003.

BUSH, BLAIR AND THE SPECIAL RELATIONSHIP

RATHER THAN BEING THE POODLE, WAS BLAIR MORE THE TAIL THAT WAGGED THE DOG?

By Alastair Coutts

When George W. Bush took over as U.S. president in January 2001, many on both sides of the Atlantic declared the remarkable 'special relationship'¹ that had existed in the latter part of the 1990s to be over. The ideological link between British Prime Minister Tony Blair and former U.S. President Bill Clinton had allowed an exceptional level of cooperation between the two. Rather than out of a pragmatic desire to make the relationship work, they simply agreed on many issues and shared similar approaches. When Blair first met Bush at Camp David in February 2001, however, they were immediately dubbed "the odd couple," where "oil patch meets Oxbridge."² Their backgrounds and ideologies were opposites, "Bush the right-wing Republican and little time for compromise; Blair, the ultimate consensus politician, the Third Way man who names Bill Clinton as one of his closest political allies."³ But crossing political divides is not something new to Blair.⁴ Today, there is no doubt that Blair and Bush now have one of the closest and most workable relationships, not just between world leaders, but also in the history of the special relationship.

Many have asked what it is that drives Blair to stand shoul-

der to shoulder with someone who seems to have such different approaches and ideologies. In particular, Blair has made arguably his largest political gamble to date by squarely aligning himself with Bush on the decision to go to war with Iraq. While most of the British public, Blair's own Labour Party and virtually all of America's other allies had pushed for the cautious approach, implying a re-ignition the resolutions of the 1990s by the United Nations, Bush and Blair have consistently called for either new and tougher U.N. resolutions or outright military intervention. Thus, much war talk has emanated from both the White House and Downing Street over the course of the last fourteen months to the consternation of other NATO allies.

The purpose of this paper is to ask the following questions: What have been the goals of the Bush administration with regards to the disarmament of Iraq? How divided was the administration in its approach? What was Blair's agenda in backing the Bush administration? Did Bush and Blair really wish for military action or was the achievement of the new tougher resolution always the goal? And finally, did Blair play a critical role in the end result?

BUSH ADMINISTRATION: INTENTIONS AND DIVISIONS

In determining these goals, it is worth investigating how motivated the administration was in disarming Iraq, what route the administration would seek, how unified the administration was and what their motives were. Here it will be shown that while before the terrorist attacks of Sept. 11, 2001, this administration had started to look at alternatives for its disarmament, but 9/11 altered the urgency of this mission. Yet while the terrorist attacks focused the issue, it also highlighted divisions within the administration that proved significant. It will be shown that domestic politics played a role on the rhetoric emanating from the White House.

The immediate aftermath of the events of Sept. 11 give some useful pointers on the Bush administration's tendencies, both with regards to their intentions on Iraq, their inclinations to be either unilateral or multilateral and the divisions within the administration.

Many within the Bush administration drew the conclusion that Iraqi leader Saddam Hussein may have been involved with 9/11. While direct suspicion turned to the Islamic group al Qaeda, the strategic response was to target those countries that were known to either provide protection or support for al Qaeda. U.S. Vice President Dick Cheney had said immediately after the attacks, "to strike a blow against terrorism inevitably meant targeting the countries that nurture and export it."⁵ Deputy Secretary of Defence Paul Wolfowitz reaffirmed this view: "It's not simply a matter of capturing people and holding them accountable, but removing the sanctuaries, removing the support systems, ending the states that sponsor them. It will be a campaign, not a single action. And we're going to keep after these people and the people who support them until it stops."⁶ Although it was immediately agreed that this would involve Afghanistan, some within the administration believed that it should involve an attack on Iraq too.

Failure to 'deal with Iraq' was seen by Bush and other Republicans as one of the most problematic legacies to have been inherited from the Clinton administration.⁷ Thus even before the attacks, the Pentagon had been working on military options to deal with Iraq and both Defence Secretary Donald Rumsfeld and Wolfowitz felt the attacks represented an opportunity to invade and topple Saddam.⁸ Secretary of State Colin Powell disagreed, citing the fact that the international community would almost certainly be opposed to it, threatening the cohesion of the growing coalition that supported an invasion of Afghanistan. He felt invading Iraq was "not what they [the coalition] had signed up to."⁹ It would give the coalition members an excuse to withdraw. This became a major bone of contention within the administration.

Bush's view seems to be that while he suspected Saddam's involvement, without strong evidence he wasn't prepared to act too quickly: "Many believe that Saddam is involved. That's probably not an issue for now. If we catch him, we'll act. He probably was behind this in the end."¹⁰ More than anything, Bush felt his best chance of gaining support for a later attack on Iraq would be a successful campaign against Afghanistan, "My theory is you've got to

do something and do it well and that...if we could prove we could be successful in the [Afghanistan] theater, then the rest of the task would be easier.”¹¹ The non-intervention route prevailed during the next six months as the United States and its allies successfully embarked on their campaign against Afghanistan.

This has shown two things: First, the Bush administration was keen to tackle the issue of Saddam at some point. Second, this very issue started to show divisions within the administration that had thus far lain dormant.

The administration was equally divided on whether the United States should act alone or in a coalition of allies. Cheney hinted that, while an international coalition would be nice, it was worse to have a coalition that “tied their hands.”¹² This view was later repeated by Wolfowitz who said that U.S. foreign policy from now on must have “the mission that determines the coalition; the coalition must not determine the mission.”¹³ However, the main debate seems to have been between the ‘Rumsfeld camp’ that argued multilateral action was preferred but not essential, and the ‘Powell camp’ that insisted multilateral cooperation was paramount. Certainly Bush seems to have favored the former. Bush later recalled that his “attitude all along was, if we have to go it alone, we’ll go it alone; but I’d rather not.”¹⁴ Yet at the same time, he felt America would go it alone if necessary: “At some point, we may be the only ones left. That’s okay with me. We are America.”¹⁵ While Cheney and Rumsfeld agreed, Powell repeatedly pointed out that the broader the coalition, the greater the legitimacy of their actions. Furthermore, Powell saw the attacks of 9/11 as a diplomatic opportunity. An event of this magnitude could serve to reshape the structure of worldwide relationships. Not only could old foes, such as Russia and China, be brought onside, but cooperation could be greatly increased within these alliances in areas such as intelligence sharing and the tracking of financial assets.¹⁶

However, it was with the resurfacing of the issue of Iraq in the spring of 2002 that fissures in the administration became more obvious. Powell began to feel increasingly alienated. He referred to himself as “being back in the icebox”¹⁷ due to his view that the administration should publish a “White Paper” detailing evidence sup-

porting Osama bin Laden's involvement in the 9/11 attacks.¹⁸ This was heavily criticized by other members of Bush's Cabinet. Rumsfeld, for example, worried that it might set a dangerous precedent: "We may not have enough information to make our case next time, and it may impair our ability to pre-empt against the threat that may be coming at us."¹⁹ Additionally, following his trip to mediate in the Israeli-Palestine conflict in early 2002, Powell felt others in the administration, particularly from Cheney and Rumsfeld's offices,²⁰ had deliberately given the public the impression that he was "pro-Palestine" in an attempt to undermine his popularity domestically. This had prompted his deputy, Richard Armitage, to tell him that, "they're eating cheese on you."²¹ Powell agreed with many in Europe that the Israeli-Palestine conflict should be dealt with before Iraq, as Anthony Zinni, Powell's senior advisor, stated in August.²²

During this time, the messages emanating from the Bush administration on Iraq's disarmament were increasingly contradictory. A clear division was emerging over whether the United States should act alone or return to the United Nations. It seems that this genuinely reflected the varying beliefs within the administration, not just on the means – unilateral vs. multilateral – but also on the end – regime change vs. disarmament.

Powell sought unlimited access for weapons inspectors: "No inspection regime would be of any use, based on our experience, unless it's anywhere, anytime, anyplace, anybody."²³ Given the existing U.N. resolutions contained some restrictions – particularly access to Saddam's palaces – this implicitly called for a new resolution. "Iraq has been in violation of many U.N. resolutions for most of the last eleven or so years. And so, as a first step, let's see what the inspectors find. Send them back in."²⁴ If this failed to produce the disarmament desired, the United States would then have greater legitimacy in initiating military action.

However, while Powell was describing weapons inspectors as 'essential,' Cheney was calling them 'useless.'²⁵ "A return of inspectors would provide no assurance whatsoever of compliance with U.N. resolutions. On the contrary, there is a great danger that it would provide false comfort that Mr. Hussein was somehow 'back in his

box’.”²⁶ Rumsfeld, on the other hand, was sending out the message that the United States should not wait to gain international support to act in Iraq. “It is less important to have unanimity than it is to be making the right decision and doing the right thing, even though at the outset it may seem lonesome.”²⁷ In other words, don’t be frightened of acting alone.

Bush was undecided, swinging between the different opinions in his Cabinet. According to Bob Woodward,²⁸ Powell felt increasingly excluded from the president and sensed that Bush was heading toward the idea of a pre-emptive strike against Iraq.²⁹ His feeling of exclusion was such that Armitage suggested that Powell should attempt to have more private meetings with Bush in order to counter the ones Rumsfeld was having. Indeed, Powell became increasingly blunt and direct with Bush, “It’s nice to say we can do it unilaterally, except we can’t.”³⁰ This appears to have been something of a turning point.

When Bush finally revealed his intention to take the multilateral route in his speech to the United Nations,³¹ it was the result of much conflict and division in the administration. During the course of this process, rumours were rife that Powell was going to stand down from his post at the end of Bush’s first term.³² Witnesses saw Powell and Rumsfeld having a public row in the Rose Garden of the White House. The messages from Bush throughout were ambiguous, often reflecting the views of the last person in his office, raising separate questions over the strength of Bush’s leadership qualities.

While a lack of leadership may explain some of the conflicting messages to come out of the White House over the last half of 2002, it is possible congressional elections on Nov. 5 played a role. As one British newspaper points out, the “hardline on Iraq as an extension of the U.S.’s ‘war on terror’ was a popular campaign pitch.”³³ Former Democratic presidential candidate Al Gore drew much criticism when, in September, he spoke out against the Bush administration’s policies toward Iraq.³⁴ New York Times columnist Thomas L. Friedman described the Democratic opposition as so weak, that Blair, Powell, and U.S. Sen. John McCain became the ‘De Facto Democrats,’³⁵ providing the only real opposition to the administra-

tion's view. If true, this reflects how firmly much of the U.S. electorate is positioned in the 'pro-military intervention' camp, a point surely not unnoticed by Karl Rove, Bush's chief political strategist. It also implies these three individuals had some degree of influence.

As has been pointed out, though these political considerations might have affected the magnitude of the rhetoric from Bush, there were real divisions within the administration. In the short term, Powell's view prevailed. Was this a result of Powell single-handedly persuading Bush of the merits of this course of action? Or was it the influence of Tony Blair, described by the *New York Times* as one of the three most important 'doves,' along with Powell and McCain?³⁶ If it was the latter, what were Blair's motives for aligning himself with Bush and was this the best strategy to gain influence over him?

BLAIR: INTENTIONS AND INFLUENCE

What were the reasons that Blair positioned himself with Bush? First, he genuinely believed that something had to be done with Saddam. However, while he outwardly talked up the military option, he did this not just to bring himself 'onside' with the Bush administration, but also because he felt the tougher the rhetoric the more likely Saddam would cooperate peacefully. Second, he became increasingly concerned by the strains that were starting to show in the transatlantic relationship. Not only did he see risks to Britain if the relationship was allowed to deteriorate, but he also perceived a very real risk to world stability. Third, despite objections within his own party, he gained politically from this position. The Tory party has been left unable to hold its traditionally pro-military point of differentiation. Finally, although differences exist, Blair and Bush have much in common.

Blair had no doubts about the need to pressure Saddam to the highest level to bring about disarmament. As early as April 2002, he said, "It has always been our policy that Iraq would be a better place without Saddam Hussein. We know he has been developing these weapons. We know that those weapons constitute a threat. The issue has to be dealt with."³⁷ More recently, when presenting his dossier

with evidence on Iraq's weapons of mass destruction (WMD) to the British Parliament, he said, "Our case is simply this: not that we take military action, come what may; but that the case for ensuring Iraqi disarmament [as the United Nations stipulated] is overwhelming. I defy anyone on the basis of this evidence to say that is an unreasonable demand for the international community to make when, after all, it is only the same demand that we have made for eleven years and he has rejected."³⁸

Nonetheless, Blair has been careful in two respects: He has never actually used the terminology "regime change" and he has consistently implied that military force should be used as a threat to back up diplomacy. In October, Blair said:

"The international community will talk but not act; will use diplomacy but not force; and we know, again from our history, that diplomacy, not backed by the threat of force, has never worked with dictators and never will work... But our purpose is disarmament. No-one wants military conflict."³⁹

This seems to be the largest difference between Blair's government and some of the more hawkish within the Bush administration. Threaten war and the U.N. route is more likely to be successful. In his speech at the Labour Party Conference in September, Blair said "Let Saddam comply with the will of the U.N. . . . Sometimes, and in particular dealing with a dictator, the only chance of peace is a readiness for war."⁴⁰

More crucially, he does not believe that the rest of the world should stand by and let the United States deal with Saddam alone, "This isn't just an issue for the United States. It is an issue for Britain. It is an issue for the wider world. America shouldn't have to face this issue alone. We should face it together."⁴¹

This leads to a most fundamental point: Significant rifts had developed in an already fragile transatlantic relationship over what should be done with Iraq. Blair believes strongly that the U.S.-Europe alliance is essential for world stability. In November, he said, "Europe and America should stand together. The moment people think they can play Europe and America off against each other then every

bad lot in the world will be doing it, and we will be the losers.”⁴² On the other hand, German Chancellor Gerhard Schroeder has been openly critical. In an interview with the *New York Times*, he said that Germany would not support an attack on Iraq, given that it would unsettle the Middle East, destroy the coalition against terror, and “perhaps even push the Iraqi dictator into the very rapprochement with Islamic extremists that the United States fears.”⁴³ He also implied the United States had not bothered to analyze the consequences of an invasion or make any strategy for afterwards.⁴⁴

Differences have existed between Europe and America over the Middle East conflict, trade and the environment, as well as Iraq. Blair’s greatest concern is a point Robert Kagan put forward: The differences go well beyond specific issues in foreign policy; basic values and interests are diverging.⁴⁵ Europe is interested in a “self-contained world of laws and rules and transnational negotiation and cooperation,” while the United States believes that “international laws and rules are unreliable” and “true security and the promotion of a liberal order still depend on the possession and use of military might.”⁴⁶ Treatment of Iraq provides a good example of this. Furthermore, the difference in military might means the United States no longer needs Europe or, in the words of Richard Haas, head of policy planning at the U.S. State Department, the danger was not of some crisis across the Atlantic but of a European “loss of relevance.”⁴⁷ This would seem to be Blair’s biggest fear. By positioning himself closer to America, he acts as the link between the United States and Europe. He not only maximizes his leverage on the global stage but he also helps hold the alliance together. While Kagan feels the fact that the United Kingdom sided with the United States on Iraq, he indicates how also culturally, Great Britain is becoming more similar to the United States.⁴⁸ Blair nevertheless believes that Britain and the rest of the world are better off when Europe and the United States are working together. However, as Nicole Gnesotto points out, Blair seems to recognize that 9/11 has caused a further shift in U.S. foreign policy.⁴⁹ Greater priority is placed on domestic security, so previous U.S. dissatisfaction over the financial ‘burden-sharing’ of European security has been replaced with European security being

“relegated to secondary importance.”⁵⁰ Europe’s military inferiority leads “the United States to believe that the Europeans are relatively useless, and this in turn confirms America’s unilateralist choices.”⁵¹ Hence, combined with the U.S.’s undeniable status as the world’s only superpower, the United States feels it can impose its will on the rest of the world. As Bush said, “you’re either with us or against us.”⁵² Pierre Hassner describes this development as moving “from total war to war without risk and now war without rules,”⁵³ citing the U.S.’s threat to withdraw from all future U.N. peacekeeping missions unless the rules were changed for the United States on the International Criminal Court.⁵⁴ Therefore, while most of Europe is concerned “not to provide a pretext that might fuel the cause of those in the United States...to place it above the law,” the real risk is to “relegate Europe to the status of an irrelevant actor.”⁵⁵ Blair has sided with the administration on a key issue like Iraq in an attempt to both gain greater influence and hold the alliance together. The shift in his enthusiasm for the ESDP⁵⁶ since his summit with French President Jacques Chirac at St. Malo in 1998 is evidence of this. Blair “looks a lot less European than he used to,” says Francois Heisbourg of the Foundation for Strategic Research in Paris.⁵⁷

Clearly Blair sees the new world after 9/11 as one in which the United States will feel that it is entitled to act unilaterally if it needs to. There is little Europe can do to prevent it so cooperation is preferable to confrontation. Indeed, Blair’s apparent siding with America has prompted some within the old Paris-Berlin-Brussels axis to refer to “the little dog that followed America.”⁵⁸ However, opinion in Eastern European countries, to where the European Union’s center of gravity is rapidly shifting, is decidedly more pro-American. To them, “Britain’s loyalty to America seems less servile than logical.”⁵⁹ Blair’s apparent sacrifice in Europe may be less than it seems.

Additionally, domestic politics have played a part in Blair’s positioning with Iraq. With a majority of 167 seats in the House of Commons, Blair has been able to discount some of the protestation he has received to his Iraqi policy from within his own party. Gerald Kauffman, former foreign secretary under Blair, led the backbench

movement against a war with Iraq, gaining the support of 160 Labour MP's. He described Bush as "the most intellectually backward American president of my political lifetime" and "surrounded by advisers whose bellicosity is exceeded only by their political, military and diplomatic illiteracy."⁶⁰ He goes on to list the reasons for his opposition to military action, including retaliation by Saddam with WMD, Israel's inevitable involvement in the conflict and an oil crisis comparable to the 1973 War. Ironically, Blair has received more support from the opposition Conservative Party. Party leader Iain Duncan-Smith asked "those who refuse to contemplate military action at any price: How are we to force Saddam to comply with U.N. resolutions that he has flouted for a decade?"⁶¹ Strong alliances with an American Republican president, the Reagan-Thatcher relationship for example, and a forceful foreign policy were traditionally the domain of the Tory party. Blair has successfully stolen this, leaving them little to differentiate themselves within the foreign policy arena.

Finally, Blair sees similarities between the United States and Britain and also between himself and Bush: "The reason why we are with America in so many of these issues is because it is in our interests; we do think the same, we do feel the same, and we have the same sense of belief that, if there is a problem, you've got to act on it."⁶² Some people close to Blair would argue that the public also underestimates the 'moral axis' to Blair's politics. "He sees this as a moral issue," says one figure close to Blair. "He does not understand how people on the left can argue against what we are saying about Saddam. He [Saddam] is an evil man."⁶³ Both leaders feel there is a strong Christian backing to their policies. According to Denis MacShane, a British M.P., "They come from very different political clans, but their politics are driven not by ideologies, but by values."⁶⁴ Blair also has more personal respect for Bush than most appreciate: "The thing that has impressed me the most is that he's really direct, he's really to the point, he's very straight and he's extremely easy to deal with. There's no hidden agenda or undercurrents to the conversation."⁶⁵ Indeed, they are close enough to preview each other's speeches. Blair apparently contributed to the multilateral flavor of Bush's address to the United Nations and Bush was allowed to see

Blair's presentation to Parliament on Iraq.⁶⁶ Ultimately, "The two leaders are convinced that terrorism, political repression and antidemocratic forces in general are a threat to global security and economic well-being."⁶⁷

POODLE OR TAIL THAT WAGGED THE DOG?

Was Tony Blair 'the poodle,' pandering to Bush, or did he recognize that outwardly supporting Bush allowed him maximum influence, meaning Britain could be the 'tail that wagged the dog?'

From the evidence presented above, it is clear that while Blair was prepared to talk up the military options, he did so to increase the chances of success for the multilateral U.N. route. He never explicitly called for regime change and, as British Foreign Secretary Jack Straw confirmed, "The best chance we have of resolving this crisis peacefully is by the toughest possible stand which makes clear our readiness to use force if the international will continues to be defied."⁶⁸ Hence the reputation he gained within the United States as one of the "three most important doves."

However, while "inaction was never an option,"⁶⁹ Blair believed he gained more access to Bush by supporting him. "The more he stands shoulder-to-shoulder with Bush, then the more influence he has to use a restraining hand."⁷⁰ "Even superpowers don't like being lonely," according to John Chipman, director of the International Institute for Strategic Studies.⁷¹ The willingness to commit British military forces seems to gain great credibility with the White House. While hugely inferior to U.S. forces, "their political value far outweighs their military utility."⁷² Blair's support gives Bush "greater credibility" among potential partners, according to Chipman.⁷³ Yet despite this show of military willingness, Blair maintained the reputation as the 'multilateralist' among Bush's Cabinet members. According to sources, Powell would invoke Blair's view to Bush to assist him in his battles within the Bush Cabinet.⁷⁴

Another concern was to patch the supposedly troubled special relationship: "Nobody doubts that the special relationship between Britain and America is going through a rough patch."⁷⁵ Disa-

greements over the Middle East Conflict, trade issues such as the U.S. steel tariffs and the farm bill, the last minute wrangling over the International Criminal Court (ICC) and the U.S.'s rejection of the Kyoto Treaty on climate change were the main issues. Even the left wing "New Statesman" announced "new Labour is now on a par with other whingeing Europeans. Time has run out on the Blair-Bush alliance."⁷⁶ "The traditional British role of playing the bridge between the United States and Europe is becoming increasingly untenable," so said Ivo Daalder, an expert on U.S.-European relations at the Brookings Institution.⁷⁷ Moreover, the Bush administration was unhappy with Blair's use of his Labour Party Conference – in particular, using it as a means of pushing Washington on the Middle East process. As Blair said, "Some say the issue is Iraq. Some say it is the Middle East peace process. It's both."⁷⁸ Rapturous applause for Bill Clinton's speech that included many criticisms of the Bush administration was also not well received. On the other hand, it could be argued that these frictions point to the high level of influence Blair enjoys over Bush. It is argued that it was lack of British support for the United States over the ICC that forced Bush to compromise.⁷⁹ Blair's refusal to accept Bush's line that the Palestinians must elect another leader as a condition for a Palestine state is in agreement with E.U. policy: "It is for the Palestinian people to choose their own leader."⁸⁰ It was allegedly Blair who persuaded Bush that Putin was "much more than a former KGB goon."⁸¹ Probably most importantly, the last-minute October Camp David summit between Bush and Blair was called at the height of Bush's indecision over the use of the United Nations. Less than a week later, he announced his intention to go to the United Nations.

Did the other principle European allies have a critical impact? Protestations by both Schroeder and Chirac, while satisfying domestic public opinion, did not sway Bush. Schroeder's stance can be seen as the antithesis of Blair's. Even before the general election in Germany, Schroeder had presided over "Germany's coming of age in foreign affairs."⁸² However, when he declared Germany would seek greater independence in its foreign policy after 9/11 – "the days when Germany could stand timidly on the sidelines, declining to

participate in foreign military missions, are irrevocably over”⁸³ – few interpreted it as meaning greater independence from U.S. foreign policy. However, combined with some vote-catching criticisms against U.S. ‘adventures’ in Iraq, Schroeder has effectively ‘frozen’ himself out of U.S. foreign policy. “I don’t want him in the White House” had been Condoleezza Rice’s response when German Foreign Minister Joschka Fischer visited Washington in October.⁸⁴ Indeed, rather than restraining U.S. intentions, such criticism caused the United States to be increasingly unilateral. One senior Washington source told Peter Riddell that Washington is becoming increasingly dissatisfied with Europe because of their “smugness,” “intellectual arrogance,” “snobbishness,” “weak leadership” and “vacillation.”⁸⁵ Hence Blair’s fears about a crumbling transatlantic relationship would seem justified.

While Britain has sought to maximize its power in foreign affairs by acting as the bridge between Europe and America, France has attempted to gain as much leverage as possible from its position in international institutions, namely as one of five permanent members of the Security Council. Asked if he would like to see Saddam toppled, Chirac said he would, “But a few principles and a little order are needed to run the affairs of the world.”⁸⁶ Henry Kissinger’s view is that, ever since the fall of Napoleon, France has deluded itself with regards to the role it has in the world. “It is ironic that the country that invented *raison d’état* should have to occupy itself... with trying to bring its aspirations in line with its capabilities.”⁸⁷ Their right of veto, combined with diplomacy with Russia, has caused some U.S.-backed resolutions to be unsuccessful in the past, such as the 1998 resolution against Iraq. “The French don’t have a lot of power, but they certainly know how to make the most of what little they do have. At the Security Council, France wields a veto, thanks to Franklin Roosevelt (and FDR didn’t even like the French),” according to Robert Kagan.⁸⁸ Indeed, French and Russian insistence that there was no “automaticity” in resolution 1441 proved to be a major stumbling block to the final wording of the resolution. However, whilst giving the impression of wielding power, the lack of will to enforce these resolutions means this strategy runs a risk of being its own

undoing. Many in Washington see the United Nations as becoming increasingly ineffective. It was mainly the perception that the United Nations was unworkable that caused the administration to prefer the unilateralist approach in the first place. National Security Advisor Condoleezza Rice recently summed up this view: "The danger here is that the United Nations and the Security Council will become to look like a toothless tiger – that they pass resolutions addressing a major international problem, but then there is never any action."⁸⁹ Blair agrees, thus reaffirming his greatest fear: the loss of cooperation between Europe and America. "If at this moment having found the collective will to recognize the danger, we lose our collective will to deal with it, then we will destroy not the authority of America or Britain but of the United Nations itself."⁹⁰

CONCLUSION

The Observer newspaper recently quoted a U.S. commentator's description of the Bush-Blair relationship:

"The Prime Minister and the President were like two men looking through different ends of a telescope. To Blair at one end, Bush is a huge figure, right in the middle of the picture. To Bush, looking through the other, Blair is smaller, less significant. Still in his eyeline, but not taking up all the space."⁹¹

This probably depicts the relationship well, and in so doing, illustrates the impact Tony Blair has had on Bush's strategy and subsequent war to disarm Iraq. There is no doubt the most critical individual in this process was Colin Powell. Could Blair have done it without him? Certainly not. Could Powell have done it without Blair? Possibly, but with greater difficulty.

It is certain the Bush administration was extremely divided in what the appropriate course of action should be. Bush's lack of decisiveness only made the problem worse and probably encouraged both sides to make their cases publicly. If Bob Woodward's account is to be taken as accurate, however, Powell had critically changed Bush's mind before Blair and Bush had their final summit. Blair,

having built up Bush's confidence in him over the previous 12 months, was able to reassure Bush of the need for taking the U.N. route in order to give greater legitimacy to a potential military option. Most of the international community probably misjudged exactly how much this issue was a struggle within the Bush administration. The international players were only going to have an effect to the extent they managed to influence the players in his Cabinet. Blair recognizes that U.S. foreign policy did change after 9/11 and that America increasingly feels it has the right to be unilateralist.⁹² The choice for the rest of the world is to accept that and work with it, or fight it. This is where Blair managed to have a far greater effect than Chirac or Schroeder. Blair fully supported the line Powell was taking so once Powell had started to win the battle in the Bush Cabinet, Blair's influence was important.⁹³

Francis Fukuyama, in a recent lecture⁹⁴ said he believed the administration was probably always going to go down the U.N. route. Certainly, the evidence presented here does not back this up. Strobe Talbott, head of the Brookings Institution, believes Tony Blair played a crucial role in tipping the balance towards Powell at his final Camp David summit. Was this the case? It is hard to be sure, but the evidence does imply Bush was in need of some important reassurance. And it appears Blair was the one person who could provide it.

Notes

¹ Term to describe the close working relationship between Great Britain and the U.S.

² *Newsweek*, October 14, 2001.

³ *The Observer*, September 8, 2002.

⁴ Linked up with former Tory Chris Patten and former Liberal Sir David Owen.

⁵ Bob Woodward, *Bush at War* (New York: Simon and Schuster, 2002), 48.

⁶ Woodward, 60.

⁷ Rober Kagan, "The World and President Bush," *Survival* 43 (2001): 7-16.

⁸ Woodward, 49.

⁹ Woodward, 87.

- ¹⁰ Woodward, 167.
- ¹¹ Woodward, 84.
- ¹² Woodward, 48.
- ¹³ Nicole Gnesotto, "Reacting to America," *Survival* 44 (2002-2003): 100.
- ¹⁴ Woodward, 45.
- ¹⁵ Woodward, 81.
- ¹⁶ Woodward, 65.
- ¹⁷ (an expression used by Powell referring to his feeling that he was periodically taken out of the public limelight in case he misrepresented the administration), Woodward, 190.
- ¹⁸ Woodward, 135.
- ¹⁹ Woodward, 176.
- ²⁰ Woodward, 325.
- ²¹ (military expression for "gnawing off you and enjoying it"), Woodward, 325.
- ²² *The Economist*, August 29, 2002.
- ²³ *The Ottawa Citizen*, September 9, 2002.
- ²⁴ Interview with BBC, *The Financial Times*, September 2, 2002.
- ²⁵ *The Economist*, September 5, 2002.
- ²⁶ Dick Cheney's speech to The Veterans of Foreign Wars.
- ²⁷ *The Economist*, August 25, 2002.
- ²⁸ Woodward.
- ²⁹ Woodward, 330.
- ³⁰ Woodward, 333.
- ³¹ Woodward, 348.
- ³² *The Observer*, September 8, 2002.
- ³³ *The Independent*, December 10, 2002.
- ³⁴ *The San Diego Union-Tribune*, September 29, 2002.
- ³⁵ *The New York Times*, November 10, 2002.
- ³⁶ *The New Statesman*, October 14, 2002.
- ³⁷ *The Observer World View*, April 7, 2002.
- ³⁸ Presentation to the British Parliament, *City News Publishing*, October 1, 2002.
- ³⁹ Presentation to the British Parliament, *City News Publishing*, October 1, 2002.
- ⁴⁰ The Labour Party Conference, October 1, 2002.
- ⁴¹ The Labour Party Conference.
- ⁴² *Newsweek*, November 8, 2002.
- ⁴³ *The Economist*, September 12, 2002.
- ⁴⁴ *The Economist*, September 12, 2002.
- ⁴⁵ *The Economist*, August 4, 2002.
- ⁴⁶ *The Economist*, August 4, 2002.
- ⁴⁷ *The Economist*, August 4, 2002.
- ⁴⁸ *The Economist*, August 4, 2002.
- ⁴⁹ Gnesotto, 99-106.

- ⁵⁰ Gnesotto, 99.
- ⁵¹ Gnesotto, 100.
- ⁵² Speech by Bush to Knoxville Civic Centre, April 8, 2002⁵³ P. Hassner, "The United States: the empire of force or the force of empire," *Survival* 44 (2002-2003): 101.
- ⁵⁴ Gnesotto, 101.
- ⁵⁵ Gnesotto, 101.
- ⁵⁶ ESDP – European Security and Defense Policy.
- ⁵⁷ *Newsweek*, November 8, 2002.
- ⁵⁸ *Newsweek*, November 8, 2002.
- ⁵⁹ *Newsweek*, November 8, 2002.
- ⁶⁰ *The Spectator*, August 17, 2002.
- ⁶¹ *National Review*, September 30, 2002.
- ⁶² Blair speaking on "Hotline to the President," BBC, *The Observer*, September 8, 2002.
- ⁶³ *The Observer*, September 8, 2002.
- ⁶⁴ *Newsweek*, October 14, 2002.
- ⁶⁵ Blair speaking on "Hotline to the President."
- ⁶⁶ *Newsweek*, October 14, 2002.
- ⁶⁷ *Newsweek*, October 14, 2002.
- ⁶⁸ The Labour Party Conference, October 1st, 2002.
- ⁶⁹ *The Guardian*, September 4, 2002.
- ⁷⁰ *The Guardian*, September 4, 2002.
- ⁷¹ *Newsweek*, October 14, 2002.
- ⁷² *The Economist*, August 8, 2002.
- ⁷³ *Newsweek*, October 14, 2002.
- ⁷⁴ *The New Statesman*, August 12, 2002.
- ⁷⁵ *The Economist*, July 6, 2002.
- ⁷⁶ *The New Statesman*, July 8, 2002.
- ⁷⁷ *U.S.A. Today*, July 15, 2002.
- ⁷⁸ *The New Statesman*, October 14, 2002.
- ⁷⁹ *U.S.A. Today*, July 15, 2002.
- ⁸⁰ *BBC on-line*, June 26, 2002.
- ⁸¹ *The Economist*, July 6, 2002.
- ⁸² *The Economist*, September 12, 2002.
- ⁸³ *The Economist*, September 12, 2002.
- ⁸⁴ *The Times*, November 4, 2002.
- ⁸⁵ *The Times*, November 4, 2002.
- ⁸⁶ *The New Statesman*, September 14, 2002.
- ⁸⁷ Henry Kissinger, *Diplomacy* (New York: Simon and Schuster, 1994), 120.⁸⁸ Robert, Kagan, "France's Dream World," *The Washington Post*, November 3, 2002.
- ⁸⁹ *U.S.A. Today*, September 9, 2002.
- ⁹⁰ Blair at the Labour Party Conference, October 1, 2002.

⁹¹ *The Observer*, September 8, 2002.

⁹² Gnesotto, 99-106.

⁹³ *The Guardian*, October 3, 2002.

⁹⁴ "Does the West still Exist?" SAIS Johns Hopkins, Bologna, October 28, 2002.

UNIVERSAL RIGHTS AND CULTURAL RELATIVISM: HINDUISM AND ISLAM DECONSTRUCTED

By Catherine E. Polisi

Should nations or individuals have authority to use culture as a basis for justification of human rights abuses? This question has long clouded the universality of human rights law and speaks to the often-complicated nature of defining and condemning human rights violations in a world of many religions, nationalities, values, and cultures. Cultural relativist arguments have often been used to justify even the most severe human rights abuses around the world. My objective in this essay is to begin to deconstruct the issue of cultural relativism as it applies to human rights law and show how it is used as a tool for promoting the degradation and marginalization of women in Hindu and Islamic societies. I will briefly highlight human rights violations committed against women in Hindu and Islamic cultures such as physical and verbal abuse, dowry killings, gender-biased laws, forced prostitution, female trafficking, lack of access to education, exclusion from participation in government, unfair court proceedings, and pre-menarche marriage, and argue that these violations have no cultural justification.

Although human rights abuses toward women are often jus-

tified on the grounds of Hindu and Muslim religious teachings and scriptures, in fact, the original, authoritative scriptures of both religions hold women in equal respect to men. I will utilize Hindu passages from the Vedas, the Upanishads, and the Mahabharata and Muslim passages from the Qur'an to present the argument that when these two religions began in 3000 B.C. and 610 A.D., respectively, women were considered an essential part of the community, the family unit and religion. The tremendous gender bias that exists today in Islamic and Hindu cultures does not reflect the original interpretations of the scriptures, but rather subsequent male interpretations of these texts.

Contrary to current beliefs in many Hindu and Muslim cultures, women were integral parts of daily religious rituals and were employed as religious philosophers alongside their male counterparts. They are described in the scriptures as "equal partners" to their husbands and were educated in the religious texts when these religions first began. If male religious interpretations have subsequently changed the meanings of the original teachings to subordinate women to men, cultural justification for human rights violations against women has no real foundation upon which to rest. If the word of "God" (meaning Brahma or Allah) is the definitive source of religious beliefs and practice, then followers of that religion should follow the word as it was originally intended. Hindu and Muslim women should be afforded an equal position in society according to the sacred Hindu and Muslim texts.

The Universal Declaration of Human Rights protects the civil, political, social and cultural rights of all human beings despite differences of race, color, sex, nationality, religion or opinion. The Declaration consists of thirty articles, each of which protects the fundamental and universal rights of individuals around the world. Article 1 of the Declaration provides for free and equal rights among all humans. Article 7 condemns discrimination and extends protection of the law to all. Article 10 protects the right to a fair and public trial by an "independent and impartial tribunal."¹ Article 16 upholds equal rights within the institution of marriage. Article 17 provides the right to own property to everyone and the right to not have property taken

away from the owner. Article 18 protects the right to religion and to observance of religious practices. Article 21 establishes the right for every citizen to take part in the government and vote. Article 23 institutes the right of any individual to work and be provided safe conditions in which to work. Article 26 states that everyone has the right to education. All of these rights are violated in many Hindu and Islamic cultures around the world everyday, with respect to women.

The 1999 U.S. State Department Country Report on Human Rights Practices in the Hindu Kingdom of Nepal includes restrictions on women's right to vote or participate in the political process, gender and caste discrimination, violence against women, rape and incest, dowry killings, female trafficking, employment discrimination, female property ownership violations, discriminatory laws against women including laws governing the institution of marriage and divorce, gender-biased laws related to inheritance, and little or no education for a high proportion of females in the country.² The report cites cultural and religious norms as the source of discrimination against women in Nepal.

“Although the Constitution provides protections for women, including equal pay for equal work, the Government has not taken significant action to implement its provisions. Women face discrimination, particularly in rural areas, where religious and cultural tradition, lack of education, and ignorance of the law remain severe impediments to their exercise of basic rights such as the right to vote or to hold property in their own names.”³

Despite federal Nepalese laws that were created to protect women from human rights violations and consistent pressure applied to the Nepalese government by human rights organizations, women still suffer from human rights violations on a daily basis in this and other Hindu cultures in the world.

Similarly, women in Islamic culture are also subjected to equally degrading behavior in Muslim societies. The 2003 Human Rights Watch Report on Pakistan cites the murder of 211 women within the first four months of the reporting period due to “honor killings” in which family members or other men in the community

killed women who had broken female cultural norms. Further human rights violations included laws such as the Hudood, Qisas and Diyat ordinances some of which allow men to be pardoned for crimes against women including rape and murder. Female victims of sexual assault are often pressured by men not to report the crime to authorities or be faced with criminal prosecution for committing fornication or adultery. Systematic gang rapes of women as punishment for the crimes of men are also detailed in the report. One Muslim woman was gang raped by four tribal councilmen after her brother was accused of having an “illicit” relationship with a woman. The abuse of women for the crimes of men is a regularly used method of “justice” in Pakistan and other Islamic countries.⁴

Women in Afghanistan who were liberated from the restrictions instituted by the Taliban were reported in the 2003 Human Rights Watch Report to have been harassed by Islamic fundamentalists who assaulted them or forced them to undergo immediate gynecological exams to determine whether or not they had engaged in sexual intercourse. Girls’ schools were also bombed to insure that women could not receive schooling, as was the case under the previous leadership of the Taliban.⁵ These are atrocities committed daily against women in Islamic cultures around the world, and there is no cultural, religious or other justification that can explain this abuse of women.

Hindu and Islamic societies claim that their religions dictate that women should be subordinated to men, and therefore attempt to justify the aforementioned human rights violations on these grounds. Violence against women is characterized as punishment for female misdeeds. Yet, with closer examination of the original words written in the central Hindu and Islamic scriptures, it is clear that women were not intended to be subjugated to men. In fact, women held important roles in traditional Muslim and Hindu societies as mothers, wives, religious philosophers, and educators.

In Hindu culture during the early Vedic period, which is commensurate with the Ancient Greek period in Western society, women held an important role in religion and society. Both men and women were educated equally in religion and academia; women performed

public religious sacrifices alongside men, and females received the sacred Hindu thread that is today only given to religiously learned males. The Haritasmṛti recounts the existence of a group of women called *brahmavadinis* (a Sanskrit term meaning speakers and revealers of Brahman) who remained unmarried and devoted their lives to Hindu religious study during this early Vedic period.⁶ A clear distinction in Vedic language is made between *arcarya* (a female teacher) and *arcaryani* (a teacher's wife) and *upadhyaya* (a female preceptor) and *upadhyayani* (a preceptor's wife) clearly showing that women in fact carried out religious education of others and were communicators as well as students of sacred Hindu scripture.⁷ In the Upanishads women philosophers such as Vacaknavi challenged the ideas of Yajñavalka, her male counterpart. Women, such as Queen Bispala, engaged in warfare in the Rīg Veda revealing that women also played a role in protecting and participating in state affairs.⁸

Hindu gods and goddesses personify manifestations of Hindu religious concepts and nature. Interestingly, Hindu goddesses, rather than gods, are most often used to represent abstract fundamental principles such as power, strength, education, and wealth as well as important natural phenomena such as the mountains, the dawn, the earth, and the rivers. For example, Hinduism personifies divine strength and power in the form of a female figure referred to as Shakti. Saraswati, the Goddess of Learning, Music and Fine Arts, is portrayed as a female in Hindu texts and paintings. Likewise, Lakṣmī is the Goddess of Wealth, a female personification. Parvati, the mountain goddess, is the consort to Shiva, one of the most important Hindu gods. The Goddess of Dawn is Usha, the Goddess of Rivers is Ganga, and the Goddess of Earth is Prithvi – all female personifications of incredibly important aspects of nature on which humanity depends.⁹

The combination of male and female energies within one goddess or god is quite common in Hindu religion as well and is referred to as *Ardhanareeshwarar*.¹⁰ The complementary nature of the two energies is valued in Hindu society and deemed essential to achieve balance within the gods and within mortals. The three gods who make up the *Trimurti* (Brahma the Creator, Vishnu the Protector, and Shiva the Destroyer) are powerless without their female coun-

terparts. Shiva, the male Destroyer, requires power and energy from Shakti, the female provider of power, to carry out his godly duties.

Literature written about the Vedic period clearly exhibits the high respect given to women at this time in history. Romesh C. Dutt wrote in *The Civilization of India*:

“Women were held in higher respect in India than in other ancient countries, and the Epics and old literature of India assign a higher position to them than the epics and literature of ancient Greece. Hindu women enjoyed some rights of property from the Vedic Age, took share in social and religious rights, and were sometimes distinguished by their learning. The absolute seclusion of women in India was unknown in ancient times.”¹¹

Louis Jaccoliot, an author who lived and worked in French India (1837-1890), echoed the above sentiment:

“India of the Vedas entertained a respect for women amounting to worship... What! Here is a civilization, which you cannot deny to be older than your own, which places the woman on a level with the man and gives her an equal place in the family and in society”.¹²

Hindu scriptures clearly convey the role of women in the Vedas. “The wife and husband, being the equal halves of one substance, are equal in every aspect; therefore, both should join and take equal parts in all work, religious and secular.”¹³ Wives and husbands were directed by the Vedas to perform religious rites, ceremonies, and sacrifices together as is evidenced by the Sanskrit name given to the spiritual role of wives, *Sahadharmini*, or “spiritual helpmate.”¹⁴ Women had property ownership rights and the ability to plead their own court cases as is shown in Book X of the Rig Veda. Women as mothers were respected above fathers as is stated in the Mahabharata, “While a father is superior to ten Brahmin priests well-versed in the Vedas, a mother is superior to ten such fathers, or the entire world.”

Today, some remnants of Vedic-matriarchy exist in the southern part of India. Matrilineal lines of inheritance exist in which the

oldest daughter receives property or other family possessions from her mother. These matriarchal societies are now the vestiges of a formerly more prominent role of females in Hindu society.

Hindu practices such as *Sati*, the expectation of a wife to throw herself on her husband's funeral pyre at his ceremonial cremation, were not known in the Vedic period. The ancient Hindu scripture the Rig Veda states, "Rise up woman, thou art lying by one whose life is gone, come to the world of the living, away from thy husband, and become the wife of him who holds thy hand and is willing to marry thee."¹⁵ This passage makes it clear that at a husband's death a wife is not expected to perform *Sati*, as was instituted by many Hindu cultures centuries after the Vedic period.¹⁶ Many scholars argue that the practice developed in 721 A.D. when Mohammed bin Qasim conquered India and killed thousands of men and enslaved the wives and children of the deceased. Women who lost their husbands chose to kill themselves rather than live as slaves for the duration of their lives.¹⁷ This practice was common and expected in Nepalese culture until it was recently outlawed after significant pressure applied by human rights groups on the Nepalese government.

Similarly, marriage dowries originally were managed by women and were intended as collateral in case of a financial emergency. After colonization of India by the British, western ideas of gender inequality influenced Indian Hindus and the practice of dowries became controlled by men, which eventually led to dowry killings in Hindu culture. Dowry killings are murders of wives carried out by the wives' husbands after receiving the in-laws' marriage dowry. In these crimes, men use marriage to a woman as a method of acquiring money and precious gifts, which are given in marriage dowries, and murder their wives once the dowry is received. British interpretation of Hindu law regarding marriage dowries at the time of colonization changed ownership of marriage dowries from that of women to men and soon thereafter dowry murders began to occur.

It is clear from these examples that Hindu culture did not subordinate women to men in the early years of the religion. Yet today women have been marginalized in society and restricted from

exercising their natural born rights as provided by the U.N. Declaration of Human Rights. Much of the current restrictions placed on women in Hindu culture are a result of subsequent interpretations of Hindu scriptures by sexist males, or are the result of European colonization and the assimilation of principles and values that existed in Europe at that time.

Islam has also suffered from the male interpretations of the teachings of Mohammad which have led Islamic society to believe that Mohammad instituted subordination of women. This is incorrect. Prior to Mohammad's birth in 632 A.D. much of the Middle East was an egalitarian society in which women and men worked, learned, and lived side by side. The women in Mohammad's life, such as Mohammad's wife Aisha, played a significant role in recounting his religious teachings which were then written down as the scriptures of Islam.¹⁸ Mohammad's wives and other women participated in wars as is accounted in the battle of Uhud. Women brought water to the battlefield, fought alongside men, cared for the injured, and played instruments and sang war songs.¹⁹ Quotes from the Qur'an clearly point to equality between the sexes:

Wives have rights corresponding to those which husbands
have, in equitable reciprocity.
(Sura 2:229)

Mohammad addresses both men and women as equals under God in the following passage:

For Muslim men and women,
For believing men and women,
For devout men and women,
For true men and women,
For men and women who are
Patient and constant, for men
And women who humble themselves,
For men and women who give
In charity, for men and women
Who fast (and deny themselves),
For men and women who
Guard their chastity, and

For men and women in God's praise,
For them has God prepared
Forgiveness and a great reward.
(Sura 33:35)

Today there are many Muslim nations, such as Saudi Arabia, whose laws restrict women's rights. Although Saudis argue that these laws are based on Islam, they clearly are not. Amnesty International's 2002 Report on the Muslim Kingdom of Saudi Arabia highlights the nation's refusal to issue identification cards to Saudi women and laws that deny women the right to drive a car. When Saudi Arabia's Minister of Interior was asked if women would be permitted to participate in the Majlis Al-Shura (Consultative Council) he said, "Why make women a political issue... women are not a political issue, but a social issue,"²⁰ thus making it clear that women would not receive representation in the government. Saudi women need permission from a husband, father, or brother to apply for a job, be admitted to a hospital, or travel anywhere inside or outside of the country. Women are not allowed to study engineering and cannot attend the well-regarded King Fahd University of Petroleum and Minerals which trains men for work in the energy industry. Furthermore, there is no minimum age at which women may be married and it is illegal for women to marry non-Muslims.²¹

Muslims often refer to the Hadiths as evidence of Mohammad's intention to keep women subordinate to men in Muslim culture. The Hadiths were written at the same time that Mohammad lived and preached to his followers, yet the Hadiths differ greatly from Mohammad's words in their misogynistic and sexist tone as evidenced in passages like these:

If a monkey, a black dog, or a woman passes in front of a
praying person, his prayer is nullified.
(Sahih Bukhary 8:102 and Hanbel 4:86)

Bad omen is in the woman, the horse and the home.
(Sahih Bukhary 76:53)

Mohammad rejected the Hadiths repeatedly, as can be read

in the Qur'an, and commanded his followers to only follow the words he spoke and not those of others. It is clear from the way that Mohammad alluded to men and women throughout the Qur'an that he did not intend for Muslim men to think of women as animals or to disrespect or abuse women in any way. In Mohammad's words:

I never fail to reward any worker among you for any work you do, be you male or female, you are equal to one another.

(Sura 3:195)

As for those who lead a righteous life, male or female, while believing, they enter Paradise; without the slightest injustice.

(Sura 4:124)

Mohammad's words clearly show that not only should women participate in the labor force as workers, but that their work is equal to that of men in the eyes of Allah. Furthermore, a woman is intended to lead a righteous life which must, of course, include religion and will be welcomed into Paradise if she gives her loyalty to Allah. These words differ so greatly from those of the Sahih Hadiths and exhibit with clarity that Mohammad had very different intentions for women than Sahih Burkhary and other Hadith writers.

Thus, it is clear that Mohammad did not intend for women to be sexually or physically assaulted by their husbands or other men, to be raped and violated, to be ignorant through lack of education, to be spiritually and religiously vacuous through separation from religious teaching, or to be marginalized and subordinated. These societal constructions are the result of male misogynistic interpretations of Mohammad's teachings and not the words of Mohammad himself. Therefore, why do women remain in a subordinated role in Islamic society today? Education of women and men in Islamic culture is needed to expose Muslims to the true teachings of Mohammad and the intentions he originally had when uttering his sacred phrases.

Just as Europe and the United States have moved past gender discrimination in most aspects of society, so should Hindu and Islamic culture. The parallels between Western society and Eastern

society are quite astonishing. Ancient Greek society, the basis for western society today, utilized female figures to personify ideas such as war, justice, and wisdom just as Hinduism does today. Ancient Greek society also held women in society up to a higher level than subsequent generations did. Similarly, Ancient Vedic times respected the rights of women, yet today Hindu society has adopted discriminatory policies toward women. The events in both eastern and western regions of the world are exactly symmetrical and highlight quite clearly the argument against justification of human rights violations based on Hindu and Islamic religious principles. If one is to argue for cultural justification of gender-biased practices in Hindu and Islamic cultures, then one must be willing to argue that the United States can utilize culture as a basis for abusing and mistreating women. The bible and other western religious scriptures and cultural practices perpetuated the marginalization of women for centuries. Yet today we look at western countries as the pillars of sexual equality. Western culture changed over time to perceive women as equals to men in most regards, and it is this same process that must occur in Hindu and Islamic cultures before women will be able to enjoy the same freedoms that men enjoy today.

Notes

¹ United Nations General Assembly, "Universal Declaration of Human Rights, Article 10," General Assembly Resolution 217 A (III) of 10 December 1948, <<http://www.un.org/Overview/rights.html>>

² Bureau of Democracy, Human Rights and Labor, U.S. Department of State, "1999 Country Reports on Human Rights Practices," February 25, 2000, <<http://www.state.gov>>

³ Bureau of Democracy, Human Rights and Labor, 16.

⁴ Human Rights Watch, "World Report 2003 Pakistan," <<http://www.hrw.org>>

⁵ Human Rights Watch, "World Report 2003 Afghanistan," <<http://www.hrw.org>>

⁶ Sushama Londhe, "Women in Hinduism," *A Tribute to Hinduism*, February 2003, <http://www.tributetohinduism.com/Women_in_Hinduism.htm>

⁷ "Women in Hinduism."

⁸ "Women in Hinduism."

⁹ "Women in Hinduism."

¹⁰ "Women in Hinduism."

¹¹ Romesh C. Dutt, *The Civilization of India* (London: J.M. Dent, 1900), 21-22.

¹² Swami Abhedananda, *India and Her People*, 4th ed. (Calcutta: Satish Chandra Mukherjee, 1906), 253.

¹³ *Rig Veda*, Book V, Hymn 61, Verse 8.

¹⁴ *Rig Veda*, Book I, Hymn 122, Verse 2; Book I, Hymn 131, Verse 3; Book III, Hymn 53, Verses 4 and 6; Book X, Hymn 86, Verse 10.

¹⁵ *Rig Veda*, Book X, Hymn 18, Verse 8.

¹⁶ Pramatha Nath Bose, *Epochs of Civilization* (Calcutta: W. Newman, 1913), 126-127.

¹⁷ Koenraad Elst, *The Saffron Swastika: The Notion of Hindu Fascism* (New Delhi: Voice of India, 2001), 824.

¹⁸ Leila Ahmed, *Women and the Rise of Islam* (New Haven: Yale University Press, 1992), 47.

¹⁹ Ahmed, 53

²⁰ Amnesty International, "Amnesty International Report 2002 – Saudi Arabia," March 2003, <<http://www.saudhouse.com/documents/AI%20saudi%20arabia%202002.pdf>>

²¹ Human Rights Watch, "Human Rights Watch World Report 2003: Middle East Watch," *Saudhouse.com*, <<http://www.saudhouse.com/documents/HRW%20saudi%20arabia%202002.pdf>>

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