FIGHTING IN THE GRAY ZONE: A STRATEGY TO CLOSE THE PREEMPTION GAP

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Executive Summary

THESIS STATEMENT

What military strategy is appropriate for using force "to act against such emerging threats before they are fully formed?"[1] We argue preemption is ill-suited for disrupting the converged threat of terrorists and rogue states pursuing WMD. Instead, we propose that a forcible counterproliferation strategy is most effective for fighting in the "gray zone".

THE CONFUSION—ADAPTING THE CONCEPT OF IMMINENT THREAT

The 2002 National Security Strategy (NSS) rightly identified the proliferation, privatization, and acquisition of **weapons of mass destruction** (WMD)[2] by **terrorist groups** and **rogue states** as the critical non-traditional threat of the twenty-first century. And, for the first time in US history, the NSS publicly declared a military strategy labeled preemption to deal with this new threat. Classically, preemptive force has only been applied when an enemy attack is incontrovertibly imminent. The Bush NSS, however, argues that in the twenty-first century technology has advanced and become so readily available that we "must adapt the concept of imminent threat to the capabilities and objectives of today's adversaries."[3] The document says waiting for what was traditionally considered imminent is to delay action too long. This reconceptualization of preemption has troubled many, leading to the core question: how does the President know when, where, and how to use preemptive force "to act against such emerging threats before they are fully formed"?[4] The 2002 NSS does not adequately answer this question.

Therefore, using the 2002 NSS and the problems associated with justifying the preemptive use of force in Iraq as starting points, we examine three questions:

- How has the threat environment changed since the end of the Cold War?
- If there is a new threat environment, what is the appropriate military strategy for that threat?
- How can the United States justify a new strategy to domestic critics and gain international support?

THE GRAY ZONE—IDENTIFYING A NEW THREAT

Applying force against Iraq in March 2003 using the justification of preemption accelerated the debate as to whether or not the existing United Nations (UN) sanctioned use of force paradigm and associated international legal norms are outdated for the new war on terrorism. The current international legal framework, based on the 1945 UN Charter, relies heavily on sovereign, rational actors working out disputes through supranational organizations while only permitting use of force under self-defense rules initially posited hundreds of years ago. It is clear that terrorists and rogue states aggressively exploit seams in these legacy statutes, manipulating the ill-defined ways responsible states may employ force today.

In this paper we define the **convergent threat** as the threshold where there is substantial evidence of a link between terrorists and rogue states pursuing WMD. Upon crossing the threshold, we refer to this nexus as the **converged threat**. Figure 1 is a heuristic diagram where we posit the "**gray zone**" as the hazy area on the conceptual threat continuum between classically defined imminent threat and a new level called the convergent threat.[5] The figure provides a direct comparison of classical use of force options and the changes revealed by the gray zone, exposing a hole in available military strategies to deal with the converged threat.

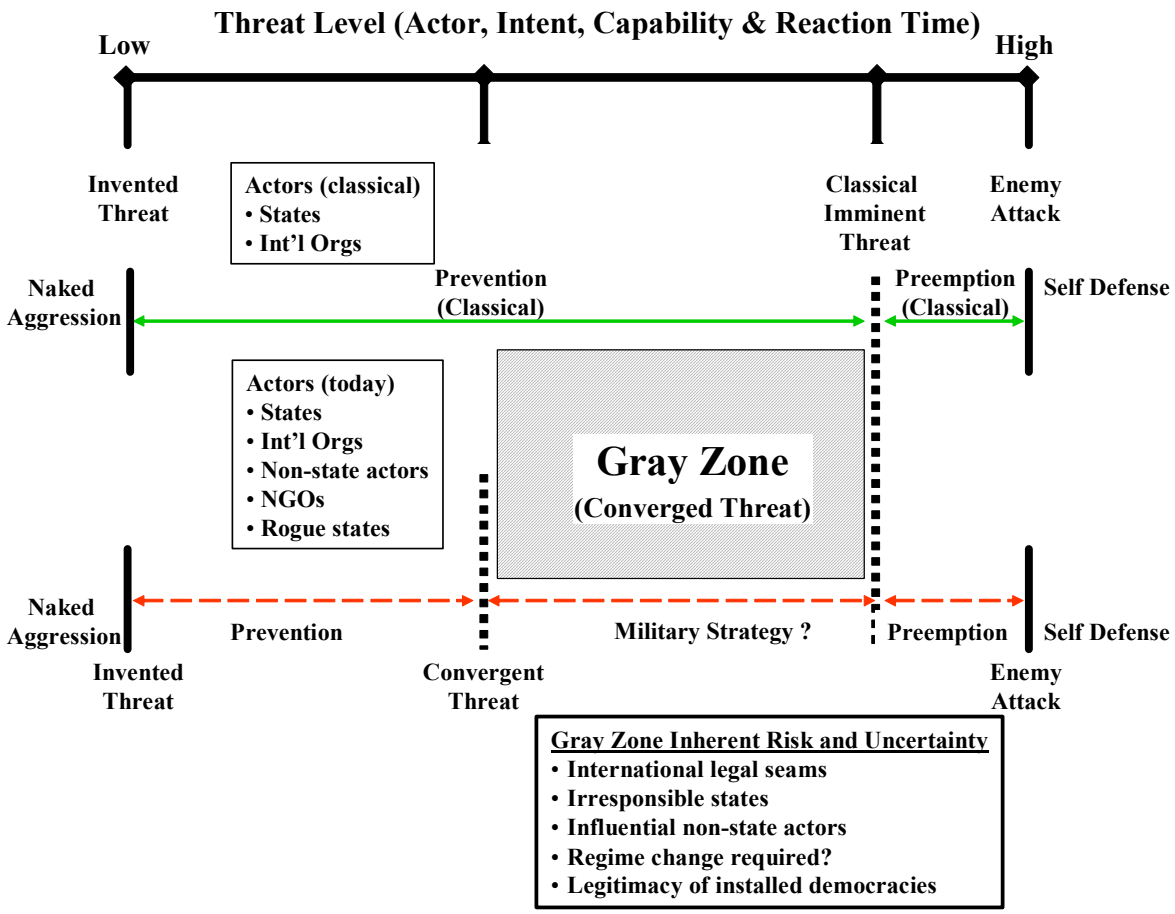

Figure 1: Use of Force Against Threats in the Gray Zone

THE STRATEGY OPTIONS—TENTATIVE CONCEPTUAL FINDINGS

To objectively determine the most effective military strategy for use of force in the gray zone we evaluated four strategies. Importantly, our conceptualization of the threat did not predispose us to a particular strategy. Rather, our analysis indicated the need to develop a strategy specifically conceived for combating converged threats but also one clearly differentiated from prevention. The best-fit strategy was not intuitive but we clearly understood it needed to be most responsive to the unpredictable reaction time of the converged threat. The four military strategies are:

1. Use of force in Self-Defense in response to a hostile act or armed attack.

2. Preemptive use of force initiated on the basis of incontrovertible evidence that an enemy attack is imminent.
3. Preventive use of force initiated in the belief that military conflict, although not imminent, is inevitable, and that to delay would involve greater risk.
4. Forcible Counterproliferation (FCP) is use of force in response to a convergent threat where there is substantial evidence of collusion between terrorists and rogue states in pursuit of weapons of mass destruction. While there is not incontrovertible evidence of an imminent attack, to delay taking action would be irresponsible.

We conclude forcible counterproliferation, unlike prevention, potentially initiates action against a converged threat early enough to provide an acceptable likelihood of success while allowing other instruments of power sufficient opportunity to defuse the situation. Further, forcible counterproliferation vigilantly manages risk and uncertainty and is the most effective strategy for harmonizing operations in the current international framework. Self-defense and preemption are backup options since both allow too great a risk of a WMD attack on US interests. Prevention is strategically unacceptable because the US acts unilaterally, too soon, and without a justifiable threat.

To fully actualize the benefits of forcible counterproliferation and to overcome initial international dissatisfaction, we recommend substantial modifications to the conventional United Nations use of force construct. For the US to engage the international community reflects an understanding that the gain in influence far exceeds the loss of freedom of action.

In summary, success of forcible counterproliferation pivots on the administration's ability to affect four critical requirements:

1. Garner international and domestic support for the strategy,

2. Change international norms to allow force against converged threats,
3. Adopt three sets of trigger points to ascertain when a nation has abrogated its sovereignty, thereby opening up the possibility of applying force under an FCP strategy, and
4. Achieve international consensus for the notion of abrogated sovereignty to legitimize military intervention against uncooperative states.

THE NEXT STEP—RECOMMENDATIONS

The recommendations below address the three questions posed at the outset of the analysis. The National Security Council must update the NSS to include the following concepts:

Redefine the threat

- Adopt the concept of converged threat in the NSS as the new standard for applying military force in the gray zone.

Update the NSS for the new threat

- Update the NSS with the military strategy of FCP to disrupt converged threats. Retain the optional use of preemptive force to defeat classically defined imminent attacks.
- Adopt the following trigger points to give decision makers the ability to ascertain when it is appropriate and acceptable for the United States to employ FCP.
    - Rouge State Trigger Point occurs when states:
        1. Brutalize their own people and squander their national resources for the personal gain of the rulers,
        2. Display no regard for international law, threaten their neighbors, and callously violate international treaties to which they are party,

3. Are determined to use military force to threaten or offensively achieve their aggressive designs, and
4. Reject basic human values.

- Terrorists Trigger Point is crossed when nations are declared supporters of terrorism by violating UN Security Council Resolution 1373.
- WMD Acquisition Program Trigger Point is declared when a rogue states or terrorists are determined to have a WMD acquisition program based on additional trigger points developed separately for nuclear, biological, and chemical weapons programs.

- Only use FCP to effect regime change and impose democracy as a last resort.
- FCP does not replace the broad framework of the Global War on Terrorism.

Justification of the new strategy

Critics may stigmatize the strategy as too much like prevention. To build international and domestic receptivity to FCP, the Administration must pursue significant international diplomacy and a rigorous domestic public relations campaign. Elements of these campaigns include:

International justification

- Lead an effort to update the existing international use of force paradigm based upon the outmoded Article 51 of the UN Charter which permits the use of force only following an armed attack.
- Obtain UN support for using FCP as a military strategy against a converged threat.
- Use diplomacy to obtain international consensus for the designation of abrogated sovereignty for nations that cross all three trigger points defined above.

Domestic justification

Undeniably, the converged threat invokes an unfavorable response from the typical American sentiment against using force. To build the will of the American people, recommend the administration:

- Undertake a rigorous public relations campaign to explain the security realities of the world and the most effective way for America to respond.
- Make clear to the American people the integrating function FCP performs between military and law enforcement agencies.

Capability enhancements

The Department of Defense (DoD) must undertake the following:

- Reinvigorate intelligence collection, integration, and analysis systems to better enable reliable/accurate assessments.
- Accelerate two battlespace sustaining efforts:
    - Continue to negotiate access rights for forward basing, thereby reducing the need for an expeditionary force logistics tail,
    - Continue to develop and refine logistics technologies and systems to minimize the self-sustaining logistical burden currently required of expeditionary forces.
- Continue to organize and resource the Standing Joint Task Force (SJTF) concept.
- Reassess both force levels and mix across the services in light of the nature of the converged threat and potential post-intervention manpower requirements such as nation building and security.
- Develop joint doctrine for what we call a find-fix-finish operational concept to disrupt converged threats.

- Develop flexible FCP responses grounded in the precept of abrogated sovereignty tied to trigger points. This will require the development of scaleable effects capability modules appropriate for the degree of converged threat. The Proliferation Security Initiative (PSI) is one option. DOD must also develop covert FCP options for use when regional conditions preclude the use of conventional forces.

Notes

[1] The White House, *The National Security Strategy of the United States of America* (Washington, DC: The White House, 17 September 2002) Introduction, 4 April 2004 <http://www.whitehouse.gov/nsc/nss.html>.

[2] There are many definitions of Weapons of Mass Destruction (WMD). For this paper we use the NSS characterization of WMD as including nuclear, biological, and chemical weapons. See NSS 15.

[3] NSS 15.

[4] NSS Introduction.

[5] Convergent: 1) Tending to move toward one point or to approach each other; 3b) characterized by having the nth term or the sum of the first n terms approach a finite limit. See *Merriam-Webster's Collegiate Dictionary,* 10th ed. (Springfield, MA: Merriam-Webster, 1997) 253.

1

Preemption as a Military Strategy

"The aim of this strategy is to help make the world not just safer but better."

The National Security Strategy of the United States of America[1]

THESIS STATEMENT

What military strategy is appropriate for using force "to act against such emerging threats before they are fully formed?"[2] We argue preemption is ill-suited for disrupting the converged threat of terrorists and rogue states pursuing WMD. Instead, we propose a forcible counterproliferation strategy is most effective for fighting in the gray zone.

THE 9/11 AFFECT—A NEW STRATEGY

The terrorist attacks against the World Trade Center and the Pentagon on 11 September 2001 were a significant emotional event not only for the nation and the families of the victims but also for the world. President Bush declared the attacks acts of war and shortly thereafter announced the "war on terrorism."[3] Compelled by 9/11, the President's advisors had to consider this emerging terrorist threat when drafting the 2002 National Security Strategy (NSS).

Historically, the American response to terrorism has been relatively passive. Between 1983 and 2001 there were more than 2,500 acts of terrorism directed at America and her citizens and yet the nation only retaliated with military force four times and has never used preemptive

force against terrorists.[4] This should be no surprise. Prior to 9/11, the United States treated the terrorist threat as a law enforcement problem and rarely contemplated the use of military force to respond to an attack. Significantly, the 2002 NSS moves away from fighting terrorism with law enforcement in favor of employing military force to stop the confluence of rogue states and terrorists pursuing weapons of mass destruction (WMD).

So what changed on 9/11? Clearly the essential nature of world terrorism changed. The Administration identified the proliferation, privatization, and acquisition of WMD by terrorist groups and rogue states as the critical non-traditional threat confronting the nation. In response, the 2002 NSS adopted the military strategy of preemption and in March 2003 President Bush ostensibly used preemptive military force to remove the threat of WMD from the hands of the unscrupulous dictator Saddam Hussein and his rogue state.

PREEMPTION—A FUNDAMENTAL CHANGE

Not since the Cold War nuclear defense strategy has the President had to conceive a grand strategy to thwart adversaries threatening the nation with WMD. The declaration of preemption as a national strategy was considered by some as the most fundamental reshaping of American grand strategy since George Kennan conceived the policy of containment in 1947.[5] Prior to war in Iraq, the President and his national security team conducted a major communications campaign to explain the decision to adopt a preemption strategy for fighting the war on terrorism. At major speeches they attempted to introduce and define the war on terrorism and the associated concepts of preemption, rogue state, imminent threat, anticipatory self-defense, and other ideas heretofore completely novel to declared national security strategies.

The primary aim of the NSS is to "help make the world not just safer but better."[6] The strategy provides a list of measures necessary to achieve this goal. The measure most relevant to

the military and the strategy of preemption is to "prevent our enemies from threatening us, our allies, and our friends, with weapons of mass destruction."[7] And while the United States will act unilaterally if necessary, the intention is to "strengthen alliances to defeat global terrorism and work to prevent attacks against us and our friends."[8]

The inclusion of preemption drew a great deal of attention to the NSS, however, it is important to emphasize that preemption is only one element of the overall strategy. Clearly the preemptive use of force is not the first choice when dealing with terrorists and the states that support them. Specifically the NSS makes the point that "the United States will not use force in all cases to preempt emerging threats."[9] Detractors of the NSS often overlook this point.

THE 2002 NSS—THE DEBATE BEGINS

Publication of the 2002 NSS initiated an on-going discussion on the appropriateness of preemption as a military strategy to address the threat from rogue states and terrorists acquiring WMD. Executing the strategy against Iraq in March 2003 intensifies the debate. Specifically, the use of force against Iraq raises serious questions about the international legal construct for the use of force, state sovereignty, and the relevance of the United Nations and NATO.

Much of the scholarly debate is directed at the how the Administration tries to redefine imminent threat and preemption. In 1842, Secretary of State Daniel Webster authored the classical standard for the legal use of preemptive force. According to Webster, the right to attack preemptively requires "the necessity of that self-defense is instant, overwhelming, and leaving no choice of means and no moment of deliberation [and that] such an attack be proportional to the threat."[10] The NSS argues that in the twenty-first century, technology has advanced and become so readily available that we "must adapt the concept of imminent threat to the capabilities and objectives of today's adversaries."[11] The President said waiting for what was traditionally

considered imminent is to delay too long.[12] Thus the Administration asserts that the current threat environment has changed to the degree such that Webster's aforementioned legal standard is too restrictive and no longer relevant.

The incomplete adaptation of the concept of imminent threat is the major weakness in the 2002 NSS. The President's use of Webster to justify the use of preemption against threats that are not technically imminent is done in contradistinction to Webster's justification of classical preemption. The resulting confusion over the meaning of the terms preemption, prevention, and imminent threat obscures the debate and intensifies the controversy. This controversy fuels our search for a more appropriate method to conceptualize and characterize the threat.

In addition, the Bush Administration clearly understood that the use of preemptive force could be destabilizing to the international system. A National Security Council (NSC) staff member recounted how the drafters of the NSS acknowledged this reality yet decided to advance the strategy of preemption for lack of any better fit. The NSC staff was concerned with downstream consequences to include the political ramifications of what the strategy might encourage other actors to do.[13] However, the Staff determined that the world was already unstable and as the strategy unequivocally states, "the United States cannot remain idle while danger gathers."[14] Thus, the NSS carefully cautions nations that might misconstrue American intentions to not "use preemption as a pretext for aggression."[15]

OUR ASSESSMENT OF THE GEOSTRATEGIC ENVIRONMENT

The fall of the Berlin wall marked the end of a time of strategic clarity for the United States and the beginning of a period of strategic challenges. A decade filled with difficult humanitarian interventions passed while security experts vainly attempted to rightly assess the next threat. In the waning years of the twentieth century terrorist activity intensified globally and

yet no one accurately predicted the cataclysmic events of 9/11. Afterward, American strategists were thrust into a war-like environment without a clear recognition of our national interests, threats to those interests, and a strategy for defeating those threats. In a quixotic manner, war often serves to motivate states to find strategic direction. It certainly has for the US as pundits, scholars, and think-tanks scurry to discover an effective strategy for dealing with the new threat.

Since 9/11, the United States has grappled with understanding the threat of global terrorism and the associated geostrategic environment. Several general observations or realizations tend to dominate the research today. First, the current international legal framework relies heavily on sovereign, rational actors working out disputes through consensual supranational organizations under rules initially posited hundreds of years ago. It is clear that terrorists and rogue states aggressively exploit seams in these legacy statutes, leveraging in their favor the ill-defined ways responsible states may employ force today.

Secondly, the use of force against Iraq in March 2003 under the justification of preemption accelerated the debate as to whether or not the UN Charter sanctioned use of force paradigm is outdated for the new war on terrorism. The following are just a few of the multifaceted questions that challenge the problematic Charter, specifically Article 51:

- If a state is fighting a war against terrorism, must it declare war on another state?
- Can states declare war on a non-state actor?
- Can states use preemptive force to deny WMD proliferation? If so, is regime change a proportional response?
- Can a state violate another state's sovereignty to attack terrorists pursuing WMD?
- Has the UN Charter outlived its usefulness?

Thirdly, there seems to be a general consensus that a WMD attack is the gravest threat facing the US today. Given the portability of certain types of WMD, the possibility of a terrorist group infiltrating the US and detonating a bomb is very real. Moreover, the reaction time available to stop such an attack is likely to be days or hours instead of months. The destructive magnitude of available weapons, the limited reaction time, and the porosity of American borders combine to make WMD a critical issue that must be dealt with now.

ASSESSING THE 2002 NSS

We commend the Administration's recognition in 2002 of the need for a radical departure in thinking about threats against the United States. Given the chaotic post-9/11 context, it is unfair to be overly critical of unresolved weaknesses in the 2002 NSS. Indeed, the NSS dedicates considerable space to elucidating challenges of the new strategic context. Yet the Administration faced a profound paradox in 2002. They believed the unpredictable nature of the threat required taking action prior to obtaining the incontrovertible evidence required by classical preemption. However, the Administration did not want to adopt a strategy of prevention because it would be unpopular with the American people and unacceptable to the international community.

We believe the NSC staffers were hindered by an antiquated international use of force construct that allows potential enemies to strike first.[16] Significantly, adequate strategic terms and concepts did not exist in 2002 to enable the staffers to elucidate a strategy against "such emerging threats before they are fully formed." For instance, what could they name a threat that is gathering but not imminent? The Administration found itself in the unenviable position of having to use loose-fitting terms and phrases to describe a strategy subject to broad interpretation and unfortunately, misinterpretation.

While well intentioned, we conclude the Administration's strategy of preemption is inappropriate for fighting the nexus of terrorists and rogue states pursuing WMD. We believe, and will demonstrate in Chapter 2, how they unsuccessfully attempted to shape a strategy of preemption to fit the adapted concept of imminent threat.

THE WAY AHEAD—THREE QUESTIONS

We agree with the NSS that the threat environment has significantly changed since the end of the Cold War. However, as the forgoing analysis suggests, preemption is not the best strategy for combating the non-traditional threat identified by the Administration. Many wonder whether or not the Bush Administration is really advocating preventive war veiled by preemption. We see this as a rhetorical debate that takes the focus away from the real strategic issue. Hence we developed a methodology to analyze this strategic conundrum and a new analytical tool for depicting the relationship between the threat and use of force. We then use our analytical tool, the 2002 NSS, and the challenges of using preemption in Iraq to answer the following questions:

1. How has the threat environment changed since the end of Cold War?
2. If there is a new threat environment, what is the appropriate military strategy for that threat environment?
3. How can the United States justify a new strategy to domestic critics and gain international support?

We systematically examine changes in the threat environment since the end of the Cold War in Chapter Two. To do so, we develop a theoretical heuristic tool to depict the relationship between aspects of the threat and the conventional use of force.

In Chapter Three we search for the best strategy to disrupt converged threats in the gray zone. We compare and contrast four strategy options for using force in the gray zone. Three of these options are conventional strategies: self-defense, preemption, and prevention. The fourth, forcible counter proliferation (FCP), we specifically conceived for the gray zone. We conclude our analysis in Chapter Three with numerous conceptual propositions and argue FCP is best suited for disrupting converged threats.

To validate our theoretical analysis, in Chapter Four we hypothetically test the four strategies against four current cases: Pakistan, North Korea, Iran, and Syria. We also evaluate the utility of applying trigger points to justify military action and the usefulness of modifying the existing construct of state sovereignty. We conclude FCP remains the best-fit strategy for disrupting converged threats.

In Chapter Five we synthesize conceptual propositions formed in each chapter and posit a series of recommendations for disrupting the threat of rogue states and terrorists pursuing WMD. These proposals include measures and issues the US must act upon now. Specifically we make recommendations for how to characterize the new threat, the strategy to fight that threat, the requirements for international and domestic support, and needed capability enhancements.

Notes

[1] NSS 1.

[2] NSS Introduction.

[3] In a meeting on 12 September 2001 with his National Security Team, President Bush said, "The deliberate and deadly attacks which were carried out yesterday against our country were more than acts of terror. They were acts of war." See George W. Bush, "Remarks by the President in Photo Opportunity with the National Security Team," 12 September 2001, The Cabinet Room, *The White House*, 17 April 2004 <http://www.whitehouse.gov>. Also see George W. Bush, "President Discusses War on Terrorism, Address to the Nation," 8 November 2001, World Congress Center, Atlanta, Georgia, *The White House,* 17 April 2004 <http://www.whitehouse.gov>.

Notes

[4] The foundation for this data comes from Michele L. Malvesti, but her analysis stops at 1998. Additional data has been gathered from the US Department of State Report, *Patterns of Global Terrorism 2002* to estimate numbers up to September 2001. See Michele L. Malvesti, "Explaining the United States' Decision to Strike Back at Terrorists," *Terrorism and Political Violence,* Vol 13 No 2 (2001): 85-106; also see US Department of State, *Patterns of Global Terrorism 2002,* 22 December 2003 <www.state.gov/s/ct/rls/pgtrpt/2002/html/19997pf.htm>.

[5] John Lewis Gaddis, "A Grand Strategy of Transformation," *Foreign Policy,* Issue 133 (Nov/Oct 2002), EBSCO, Harvard Library, 2 November 2003 <http://www.epnet.com>; and PBS Frontline, "The War Behind Closed Doors: Interview: John Lewis Gaddis," 16 January 2003, 2 September 2003 <http://www.pbs.org/wgbh/pages/frontline/shows/iraq/interview/gaddis.html>.

[6] NSS 1.

[7] NSS 1.

[8] NSS 1.

[9] NSS 15.

[10] Letter from Secretary of State Daniel Webster to Lord Ashburton of 6 August 1842 as reprinted in John Bassett Moore, *A Digest of International Law*, vol. II (1906) 412; also see Bruce Ackerman, "But What's the Legal Case for Preemption*?" Washington Post,* 18 August 2002, B2, *Yale University Law School*, 17 April 2004 <http://www.law.yale.edu/outside/html/Public_Affairs/282/yls_article.htm>.

[11] NSS 15. Also for a discussion of the subjective nature of "imminent" and the problems associated with expanding the classical conception for employing preemptive force see Daniel L. Zajac, "The Best Offense is a Good Defense: Preemption, Its Ramifications for the Department of Defense," *National Security Challenges for the 21st Century*, ed. Williamson Murray (Carlisle Barracks, PA: Strategic Studies Institute, 2003) 60.

[12] George W. Bush, Address, 2002 Graduation Exercise of the United States Military Academy, 1 June 2003, West Point, New York, *The White House,* 13 October 2003 <http://www.whitehouse.gov>.

[13] Kori Schake, member of National Security Council Staff, personal interview, 3 December 2003.

[14] NSS 15.

[15] NSS 15.

[16] From the UN Charter—"Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations." See *Charter of the United Nations*, "Article 51," New York: United Nations, 4 November 2003 <http://www.un.org/aboutun/charter/index.html>.

2

The Gray Zone

> *On the security front, international terrorism is not only a threat to peace and stability. It also has the potential to exacerbate cultural, religious, and ethnic dividing lines. And the war against terrorism can sometimes aggravate those tensions, as well as raising concerns about the protection of human rights and civil liberties.*
>
> —Kofi Annan[1]

INTERNATIONAL LAW IN TODAY'S CONTEXT

The Administration's preemption strategy sparked extensive debate. Unfortunately, most deliberations focus on the wrong issues. Supporters and detractors alike fail to capture the fundamental problem with applying the classical notions of preemption and prevention to defeat the contemporary threat of terrorists and rogue states pursuing WMD. In developing a military strategy to defeat this complex threat, the President is mired in an outmoded consensual international legal structure that lacks enforcement authority, suffers from imprecise concepts, and is unable to adapt to changing realities.

In this chapter we lay out existing international principles for use of force and describe and justify what we call the gray zone as a way of characterizing the new threat. We then

develop a theoretical heuristic diagram to study the interaction of threat and use of force. Finally, we posit a construct for depicting the use of force in today's international environment.

By proposing to "act against such emerging threats before they are fully formed"[2] the NSS reflects an apparent Administration belief that current international law on use of force is unsuited for managing the changing threat environment. President Bush is particularly concerned with disrupting the "crossroads of radicalism and technology,"[3] to stop WMD proliferation to rogue states and terrorists.

Contemporary international law is built on a foundation of writings, customs, and treaties dating back more than a millennium. St. Augustine, in the late 4th and early 5th centuries, provided considerable impetus to the thinking on the use of military force with his treatise on Just War, a concept that gained authority over time as the foundation for international law.[4] The rise of the nation-state, solidified with the Treaty of Westphalia in 1648, instigated a change in focus of international law from moral authority and justice to regulating extra-territorial disputes between sovereign states while stressing non-intervention.[5]

Following the horror of World War II and a complete disillusionment with the ability of existing nation-state rules to control expansionistic state behavior, the international community set up the United Nations as a supranational body to restrain aggressive states. Signatories were allowed to apply unilateral military force only in self-defense; all other actions required UN authorization.[6] Coercion of other nations under the threat of military action was also declared off-limits.[7] Specifically, the UN Charter precludes the use of preemptive military force.

Most writings reference Daniel Webster's 1842 letter to the British government to illustrate when use of preemptive military force is allowed. In challenging the British justification for burning the United States merchant ship *Caroline*, Webster wrote that

preemptive force was an acceptable form of self-defense only in those "cases in which the necessity of that self-defense is instant, overwhelming, and leaving no choice of means and no moment for deliberation."[8] Michael Walzer equates this preemptive form of self-defense to raising your arm to block an oncoming blow, or in other words, an imminent threat.[9] Douglas Lovelace points out that imminent threat is a difficult concept to grasp because of the variability in definitions and subjectivity in assessing threat. He proposes using the term imminent attack since it is "fairly straightforward—it is an event that will occur absent intervention."[10] His point is well made and helps to better illustrate Webster's vision of when preemption is allowed. However, to take advantage of accepted terminology, we will continue to use the term imminent threat.

DEFINING TERMS

As the preceding discussion demonstrates, the lack of commonly understood core terms hinders the scholarly debate about preemption and imminent threat. Therefore, we advance the following standardized definitions for use in this paper:

Threat—an expression of an enemy's intention to inflict evil, injury, or damage with sufficient capability to make those intentions realistic, and realistic estimate of reaction time prior to the attack (four elements of a threat: actor + intent + capability + reaction time). The threat level matures with increasing hostility from an enemy, an expanding enemy capability, and an approaching attack.[11]

Self-Defense—Use of force in response to a hostile act or armed attack.[12]

Imminent threat—A threat where reaction time must be near instantaneous.[13]

Preemptive use of force (classical preemption)—Use of force initiated on the basis of incontrovertible evidence that an enemy attack is imminent.[14]

Preventive use of force (classical prevention)—Use of force initiated in the belief that military conflict, while not imminent, is inevitable, and that to delay would involve greater risk.[15]

ADAPTING IMMINENT THREAT TO EXPOSE THE "GRAY ZONE"

Existing classical strategies for the application of military force to counter a threat are illustrated in Figure 2. The top horizontal line represents a continuum of potential threats against a state with the threat level ranging from low to high. At the far left is the lowest threat threshold, an invented threat fabricated by a state to justify aggression of choice. Progressing to the right of the invented threat is the next threshold of classical imminent threat. The highest threat threshold is enemy attack in progress at the far right. Below the threat thresholds on the next horizontal line are the classical use of force responses available to a threatened state beginning with naked aggression at the far left in response to an invented threat. Once a threat becomes more inevitable than invented, the line is crossed into the wide expanse of classical prevention responses until reaching the classical imminent threat threshold. At that point, a state applies military force as classical preemption. The final reaction to an armed attack is a self-defense military strategy.[16] This simple diagram points out how classical use of force options emphasize reaction time over the other three threat elements to classify offensive military action.

Figure 2 includes a horizontal line across the bottom with a new threat threshold created to portray the Administration's concept for adapted imminent threat. Adapted imminent threat is defined more broadly than classical imminent threat to capture President Bush's concern that if "we wait for threats to fully materialize, we will have waited too long."[17] Under this construct, preemptive actions may occur sooner as threats develop lower on the emerging threat continuum.

By diagramming these concepts we expose what we call the gray zone to portray the expansion in the area on the threat continuum suitable for preemptive action. While we will

continue to refine the heuristic diagram, we initially define the gray zone as the hazy threat expanse between classically defined imminent threat and adapted imminent threat. Significantly, the gray zone exists today; it existed prior to publication of the NSS. But it was the Administration's incomplete definition of adapted imminent threat that hinders our nation's ability to quantify threats and justify use of force. To fully comprehend the essence of the gray zone, it is worthwhile to expound upon the threat elements that make it a reality.

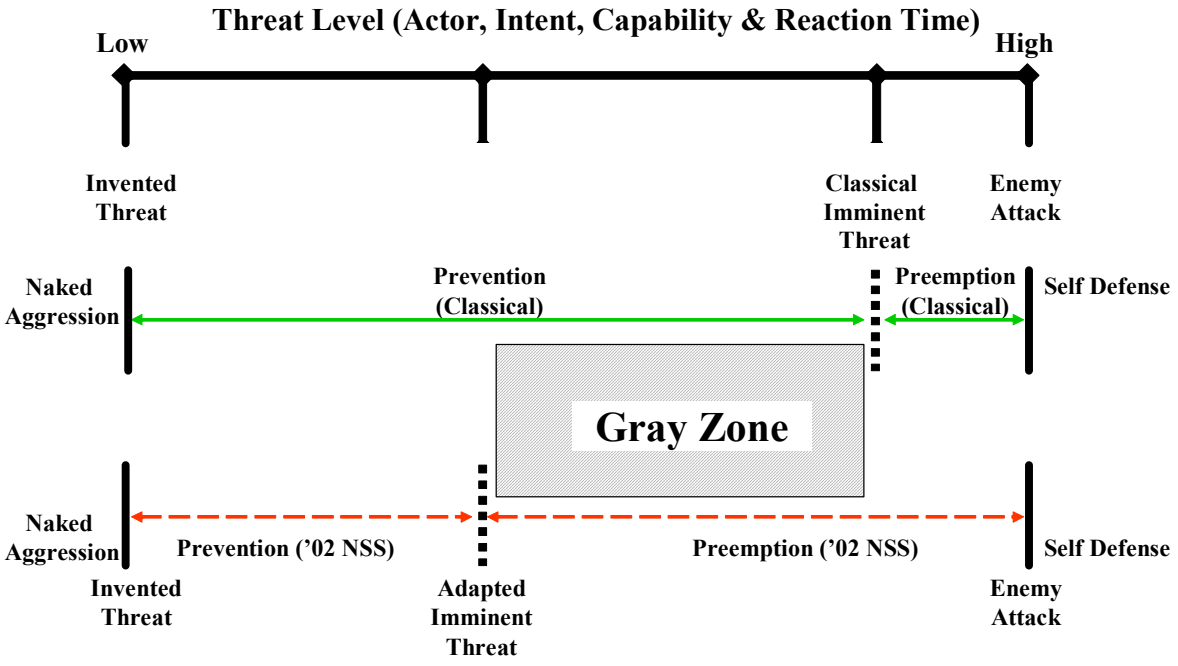

Figure 2: National Security Strategy Use of Force Responses

ELEMENTS OF THE THREAT IN THE GRAY ZONE

Regardless of how they view the strategy of preemption most analysts, supporters, and naysayers seem to agree that relationships between actors on the international scene have changed in recent years, coincident with the changing threat. The NSS identifies a specific and generally accepted threat further expounded by National Security Advisor Condoleeza Rice:

> We will…confront aggressive tyrants holding or seeking nuclear, chemical, and biological weapons that might be passed to terrorist allies. These are different

> faces of the same evil. Terrorists need a place to plot, train, and organize. Tyrants allied with terrorists can greatly extend the reach of their deadly mischief. Terrorists allied with tyrants can acquire technologies allowing them to murder on an ever more massive scale. Each threat magnifies the danger of the other. And the only path to safety is to effectively confront both terrorists and tyrants.[18]

This statement summarizes the Administration's description of what we view as a converging threat of global terror organizations supported by rogue nations and armed with the world's most dangerous weapons.

Many falsely attack the preemption strategy because they incorrectly presume its universal application to all threat situations. Yet the Administration in the 2002 NSS imposed a restrictive set of guidelines to initiate preemptive force. The NSS identifies two primary actors in this terror-focused threat, terrorists and rogue states, and provides concise descriptions of both to reduce the list of potential targetable states and organizations.

Threat Actor: Terrorists

The NSS calls terrorism "premeditated, politically motivated violence perpetrated against innocents."[19] Secretary of State Colin Powell adds additional delineation and provides insight to the intent of these actors—"The civilized world has spent more than a thousand years trying to limit the destructiveness of war. Drawing a distinction between civilians and combatants has been an essential part of this process. But terrorism aims to erase that distinction."[20]

The international community continues to struggle with how to define terrorism and terrorists because many believe one man's terrorist is another's freedom fighter.[21] This lack of common thinking prevents agreement on how to manage these pariahs. However, the Bush Administration suffers no such ambiguity.[22] Deputy Secretary of Defense Paul Wolfowitz points

out how it is flawed thinking to assume "that terrorism is an evil but a manageable evil, one that we can deal with by the weak deterrence of legal punishment and occasional retaliation."[23]

Threat Actor: Rogue States

In the NSS the Administration identified the second primary actor in the terror-focused threat with a five-part description of rogue states. These are states with governments that:

- brutalize their own people and squander their national resources for the personal gain of the rulers;
- display no regard for international law, threaten their neighbors, and callously violate international treaties to which they are party;
- are determined to acquire weapons of mass destruction, along with other advanced military technology, to be used as threats or offensively to achieve the aggressive designs of these regimes;
- sponsor terrorism around the globe; and
- reject basic human values and hate the United States and everything for which it stands. [24]

While this list is fairly comprehensive it can be highly subjective. The NSS is unclear on who applies these criteria and how they are evaluated and tracked. It is also unclear how the rest of the international community is expected to react to a set of rogue state attributes that are specifically defined for US interests. However, it is important to note that each attribute provides perceptive insight to the intent of the rogue state leadership.

Threat Capability: WMD

The final element of the threat defined by the NSS is the potential for terrorists and rogue states to pursue WMD. In multiple speeches and writings key administration officials expound

on the menace of these "weapons of mass murder"[25] falling into the wrong hands. Undersecretary of Defense for Policy Douglas J. Feith humanized the threat:

> When we looked at the 9/11 attack, and we saw that the terrorists were able to kill 3,000 people, one of the first thoughts that struck us was these are people who are willing, the terrorists, to kill as many people as they possibly can. And if they had access to biological weapons or nuclear weapons they would have been happy to kill 10 times, 100 times, 1,000 times the number of people that they killed in New York and Washington and Pennsylvania on 9/11.[26]

As this quote reveals, the Administration is particularly concerned when these three threat components (WMD, terrorists, rogue states) converge to become a "dangerous confluence."[27] Figure 3 diagrams this convergence, what we call the converged threat.

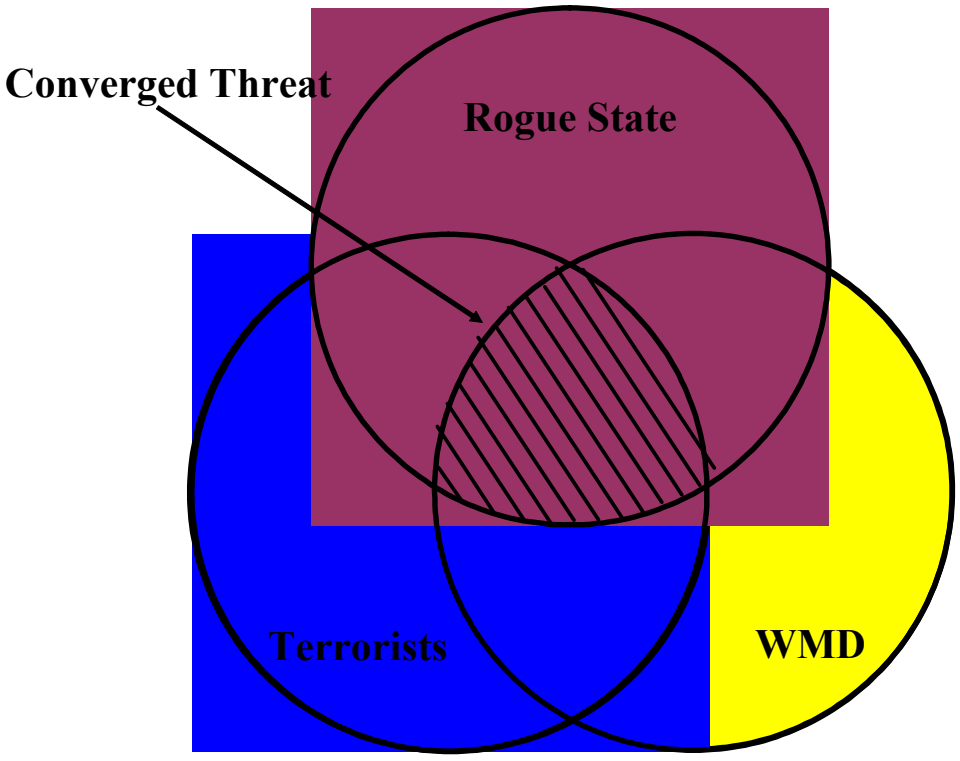

Figure 3: Converged Threat Diagram

THE MISSING THREAT ELEMENTS

The Administration has focused primarily on two of the four threat elements; the threat actors (rogue states, terrorists) and capabilities (WMD). To a point, actor intent can be deduced from a fundamental understanding of actor identity. Nonetheless, what are the essential characteristics for the two remaining elements, intent and in particular, reaction time? Are these elements germane to defining the gray zone? We'll demonstrate the importance of these remaining elements and their relationship to the gray zone below.

The UN Charter relies exclusively on reaction time to justify the use of force. Even more, as previously shown in Figure 3, the Charter relates to only that limited portion of the use of force response timeline pertaining to self-defense and debatably, preemption. The UN Charter essentially ignores variability in actor types, intent, and capabilities. It was written with the tacit assumption that the large number of signatories promotes global and regional stability. The founders believed the principals of sovereignty and non-intervention would diminish the need to resort to unilateral force. Theoretically, the collective strength of the UN should outweigh any power disparities at local levels, enhancing the sovereignty of weaker states.

Grievously however, rogue state and terrorist access to WMD, particularly nuclear weapons, significantly upsets the stability the UN is designed to protect. A rogue state or its terrorist parasites can rapidly grow from a limited irritant to a regional threat, wielding considerable influence. For terrorists, acquiring WMD allows a dramatic escalation in the ongoing trend of inflicting greater non-combatant casualties per attack.[28]

Predicting long-term changes to international stability and state relations is highly suspect and error-prone given the unchecked proliferation of WMD. Hence our conclusion is that

attempting to characterize intent and reaction time for threats in the gray zone is problematic, highly inaccurate, and potentially very dangerous.

Threat Reaction Time: Unable to Estimate WMD Maturity

The NSS points out the limitations in predicting WMD acquisition program progress:

> At the time of the Gulf War, we acquired irrefutable proof that Iraq's designs were not limited to the chemical weapons it had used against Iran and its own people, but also extended to the acquisition of nuclear weapons and biological agents. In the past decade North Korea has become the world's principal purveyor of ballistic missiles, and has tested increasingly capable missiles while developing its own WMD arsenal. Other rogue regimes seek nuclear, biological, and chemical weapons as well. These states' pursuit of, and global trade in, such weapons has become a looming threat to all nations.[29]

The inability to accurately predict how quickly these actors can convert research into useable weapons makes estimates on the effectiveness of managing expansion of the threat highly suspect and adds credence to the existence of the gray zone. In the past eighteen months North Korea, Iran, and Libya have admitted to nuclear programs extending back years, all more mature than the United States originally suspected.[30] Equally problematic was the international community's incapacity to ascertain Iraqi WMD program maturity level not only in 1991 but also in 2003 after years of inspections and relentless intelligence focus. It becomes highly problematic for the international community to determine when the classical use of force is justified to control such a looming threat. Unlike many other weapons, an actor's mere ability to produce WMD is destabilizing. Dealing with these threats requires a new thought process.

Figure 4 below diagrams a very simplistic and notional WMD production program. As a rogue state begins acquiring components for a WMD weapon another actor, probably a terrorist organization, simultaneously builds a human network. During the process the three threat components converge at what we call the convergent threat threshold and the gray zone becomes reality. A convergent threat threshold is crossed even though the forces (terrorists) and the weapons (WMD) have not physically linked-up for transport to the target. Weapon delivery and employment can be as simple as a ship carrying a suicide bomber with a dirty bomb to a US port.

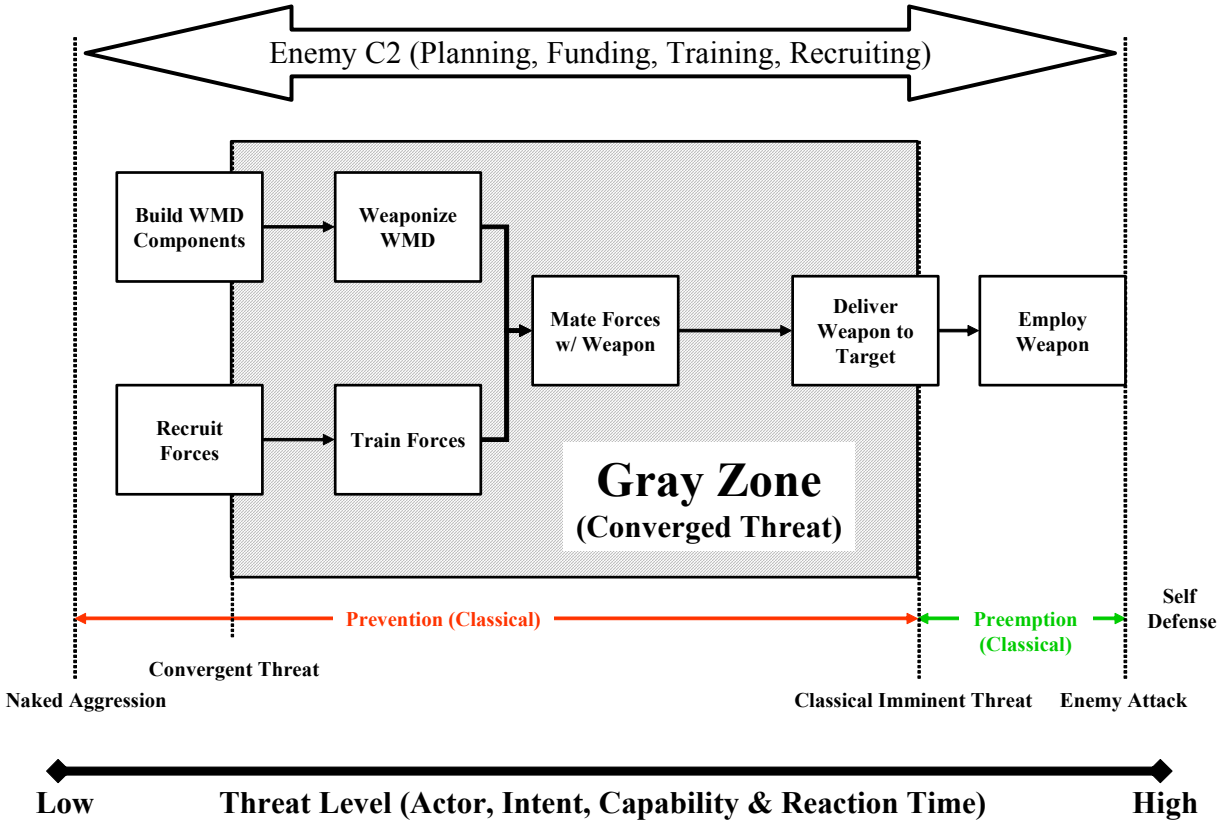

Figure 4: Notional WMD Acquisition Program

Threat Intent: Deterrence is Inadequate

For threats in the gray zone, the coercive power of retaliatory force to deter use of WMD is deficient. Implicit in the self-defense provisions of the UN Charter are not only a strong

emphasis on sovereingty and non-intervention, but a less obvious belief that the collective power of UN members provide a coercion safety net for those facing stronger, more aggressive neighbors. While President Bush affirms the utility of deterrence in some current situations, he believes it to be inadequate against unbalanced dictators and non-state actors like terrorists.[31]

Successful deterrence is based on the coercive value of potential pain militarily strong states can inflict against rational actors. Yet the lack of an address, infrastructure, and centralized leadership nodes makes coercion against terrorist organizations difficult. Deterrence against rogue states is more complicated. The rogue state leadership need only make a simple tradeoff assessment between the value of employing WMD and the potential destruction inflicted by a US response. While it is reasonable to assume the US could coerce a dictator from openly using WMD, poor enforcement of treaties do little to discourage WMD proliferation from rogue states to terrorist networks.[32]

For deterrence to work in the gray zone the US must change the focus from deterring a WMD attack to deterring WMD acquisition. Referring to Figure 2, the US needs to shift the focus of deterrence away from imminent threat on the right edge of the gray zone to convergent threat on the left. Only then will the US effectively deter WMD acquisition and proliferation.

THE GRAY ZONE FINALIZED

Managing the primarily actor and capability-based threat of the gray zone using reaction-time military strategies is unsound. To better illustrate this conclusion we revisit our gray zone heuristic diagrams. Figure 5 provides a more complete portrayal of the converged threat of rogue states and terrorists pursuing WMD. The center crosshatched area is where the threats converge to form the gray zone. Reaction time grows smaller the closer the threat moves to the center of the diagram. Superimposed on the diagram are the classical use of force options to

show the relative advantages and disadvantages of the various military strategies. Note how small an area of the converged threat is encompassed by classical use of preemptive force and self-defense. Reaction time is very limited. Conversely, preventive use of force is much more permissive and reaction time is basically unconstrained.

Figure 5 also shows how prevention encompasses all potential threat components and possibly leads to the conclusion it is the most effective strategy. Under prevention, states attack rivals to avert a future force disparity resulting in a power shift. However, inability to estimate WMD maturity and the potential for instantaneous power shifts forestalls accurate discrimination of the converged threat from other threats. It is not possible for a state to prevent a future power shift that cannot be accurately estimated.

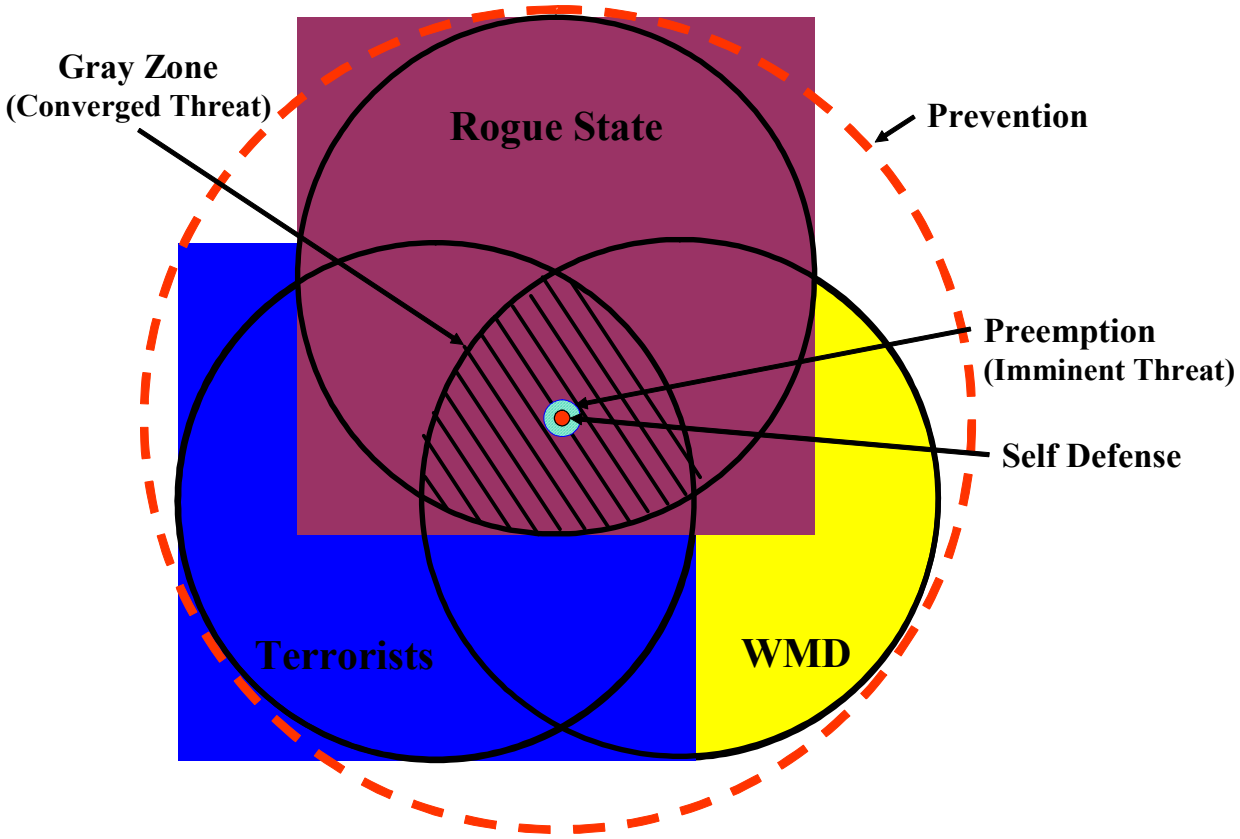

Figure 5: Converged Threat Diagram

Figure 6 is an update of the original gray zone diagram. It now lists important changes in the geostrategic environment that make managing the converged threat region more difficult and identifies the need for a unique military strategy to address the gray zone. It also replaces the adapted imminent threat threshold on the left most boundary of the gray zone with a more accurately defined threshold called the convergent threat.

Convergent Threat—The threshold where there is substantial evidence of collusion between terrorists and rogue states in pursuit of weapons of mass destruction.

Gray Zone—An area on the continuum of threats bordered by the thresholds of convergent threat and imminent threat where there is a convergence of rogue states and terrorist organizations pursuing weapons of mass destruction.

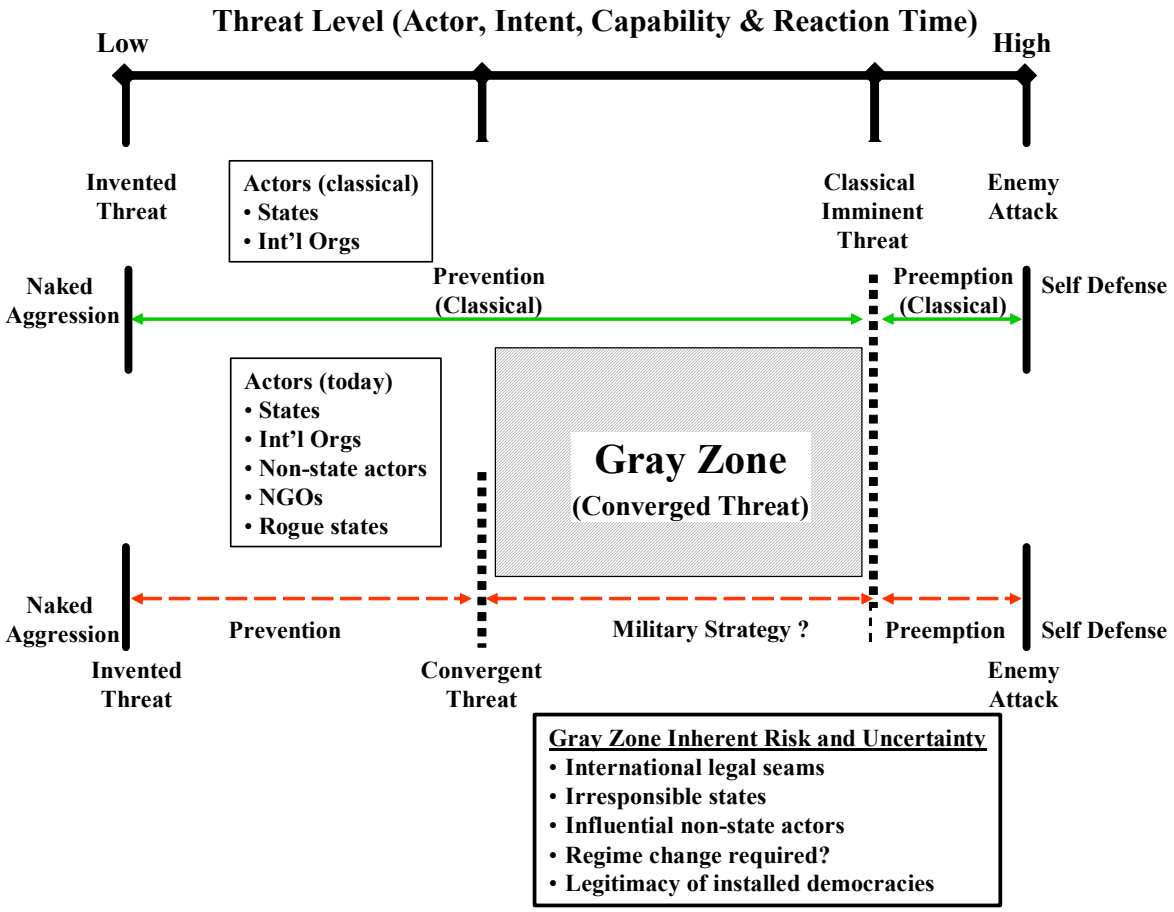

Figure 6: Converged Threat and the Gray Zone

Defining the gray zone by delineating the convergent threat threshold illuminates a significant shortfall in the current NSS. The Administration's attempt to adapt imminent threat and classical preemption to disrupt what is actually the converged threat neglects the fundamental changes in the threat components. Likewise, these changes create considerable risk and uncertainty in the geostrategic environment as Figure 6 indicates. For instance, as rogue states abrogate their rights to protection as nation-states doing so will cause the international community to question conventional sovereignty while non-state terrorist organizations gain influence in governed and ungoverned regions. And problematically, the use of force against the converged threat could portend unrest from potential regime changes and installed democracies.

International Legal Seam

The established use of force construct is out of date, unintentionally sanctioning an exploitable legal seam. In 1945 the United Nations created a consensual use of force legal construct to preclude interstate war between sovereign states to ensure their territorial security. Use of force was only legitimate in response to armed attack. We now live in a nonconsensual international community that includes rogue states willing to use terrorism and unconventional weapons both intra-state and interstate to inflict catastrophic evil on noncombatants with little or no warning. Only by recognizing this seam can the international community attempt to close it. Table 5 in Appendix C provides a direct comparison between the threat contexts that drove creation of the UN Charter and which forms the gray zone.

CONCEPTUAL PROPOSITIONS[33]

Trigger Points

The NSS provides a comprehensive list of rogue state attributes but then sidesteps important issues like how to apply the criteria, how to identify and track rogue states, and when

use of force is authorized. To rectify these shortfalls, we develop conceptual thresholds, or trigger points, for each of the three components of the converged threat. Only when all three threat trigger points are crossed is the use of force sanctioned (represented by the cross-hatched triangle in Figure 5). It is important to ensure no single threshold inadvertently or prematurely instigates military force. With the limited utility of estimating reaction time for threats in the gray zone, there is no proposed trigger point directly related to threat timelines.

Rogue States Trigger Point (actor and intent)

The Administration's set of attributes for identifying rogue states is overly expansive and US-centric. A more internationally relevant set of attributes are rogue states that:

- Brutalize their own people and squander their national resources for the personal gain of the rulers,
- Display no regard for international law, threaten their neighbors, and callously violate international treaties to which they are party,
- Are determined to use military force to threaten or offensively achieve their aggressive designs, and
- Reject basic human values.

States that violate these criteria cross the rogue state trigger point.

Terrorists Trigger Point (actor and intent)

In the aftermath of 9/11 the UN Security Council passed Resolution 1373, a strongly worded condemnation of terrorism containing relevant trigger point criteria. Recognizing that acts of "international terrorism constitute a threat to international peace and security" the Council declared "every state has the duty to refrain from organizing, instigating, assisting or participating in terrorist acts in another state or acquiescing in organized activities within its

territory directed towards the commission of such acts." The resolution then listed specific acts states should avoid to include "providing any form of support, active or passive, to entities or persons involved in terrorist acts, including by suppressing recruitment of members of terrorist groups and eliminating the supply of weapons to terrorists."[34] Resolution 1373 provides consistent and comprehensive trigger point criteria to determine whether a state is supporting terrorist organizations. States that violate these criteria cross the terrorist trigger point.

WMD Acquisition Program Trigger Point (capability)

Developing trigger points for a WMD acquisition program is complex. Chemical, biological, and nuclear programs require unique thresholds. To postulate specific trigger criteria for each type of WMD weapon is beyond the scope of this research. Furthermore, instantaneous proliferation gives rogue states and terrorists access to WMD without the need for a development program.[35] Hence, WMD trigger points must rely on non-traditional criteria to determine when a specific weapon type threshold is about to be crossed. Most importantly though, capabilities-based criteria cannot be used as the sole criteria for applying military force; the potential for error-prone action is too high. States that violate these criteria cross the WMD trigger point

Trigger Points—Who Decides?

Evaluating trigger point status and initiating action falls to the President of the United States. However, as the events in post-war Iraq and criticisms of the NSS demonstrate, using force without international buy-in imposes costs that may negate short-term combat gains. The United States will never relinquish its right to self-protection. However, accommodating international oversight for managing threats in the gray zone reinforces cooperation with our allies. The US must continue to lead diplomatic efforts to identify states that relinquish their right to full sovereignty.

Abrogated Sovereignty

To close the previously identified legal seams, the UN should classify nations that breach all three identified trigger points as abrogated sovereignty states. However, the US must now engage UN signatories to finalize and approve the parameters for abrogated sovereignty and develop a process for implementation. Closing these seams requires international recognition of the changed geopolitical environment and the need to modify traditional concepts of sovereignty.

The trigger points above are sufficient to identify states that have abrogated their sovereign responsibilities and thereby are subject to UN Security Council-sanctioned military intervention. There is no requirement to apply force, only an international recognition that force is authorized. It is important to stress, abrogated sovereignty applies only to those states that have crossed all three trigger points. Only when responsible states point out such unscrupulous state behavior will international support coalesce around this proposition. Appendix D provides a more detailed description of the concept of Abrogated Sovereignty.

With existence of the gray zone a reality and the potential for maturation of the converged threat substantial, developing a military strategy to deal with this threat is imperative. The remainder of the paper defines, compares, and contrasts strategies for applying military force in the gray zone.

Notes

[1] Kofi Annan, "Secretary-General's address to the World Economic Forum, 23 January 2004," Davos, Switzerland, *The United Nations,* 9 February 2004 <http://www.un.org/apps/sg/printsgstats.asp?nid=747>.

[2] NSS Introduction.

[3] George W. Bush, Address, 2002 Graduation Exercise of the United States Military Academy, 1 June 2003, West Point, New York, *The White House,* 13 October 2003 <http://www.whitehouse.gov>.

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[4] Emphasizing justice with war, St. Augustine defined three primary criteria before a nation can justly go to war. The decision must be made by a Competent Authority, must be in pursuit of a Just Cause, and once the war starts, the warring parties must show Right Intention to continue pursuing only the Just Cause. O'Brien provides a clear explanation and organization of Just War criteria with considerable explanation of the three primary criteria. See William V. O'Brien, *The Conduct of Just and Limited War* (New York: Praeger, 1981) 16-36.

[5] O'Brien 14.

[6] *UN Charter*, Article 51.

[7] The UN Charter states "All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations." See *UN Charter,* Article 2, Principle 4.

[8] Moore 412.

[9] Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations* (New York: Basic Books Inc, 1977) 75.

[10] Douglas C. Lovelace, Director of USAWC Strategic Studies Institute, feedback on draft Executive Summary for this paper, 17 December 2003.

[11] This definition of threat is a combination of Secretary of State Webster's definition of threat from Moore 412; and from testimony by former National Security Advisor Samuel (Sandy) Berger. Berger defines threat as "capability plus intent plus urgency." For Berger's testimony, see US House of Representatives, "US Representative Duncan Hunter (R-CA) Holds Hearing On National Security Strategy, 19 November 2003," *Political Transcripts by Federal Document Clearing House*, Factiva, Harvard Library, 23 December 2003 <www.factiva.com>.

[12] This definition is loosely based on the definition of self-defense from *Joint Publication 1-02*: "A commander has the authority and obligation to use all necessary means available and to take all appropriate action to defend that commander's unit and other US forces in the vicinity from a hostile act or hostile intent. Force used should not exceed that which is necessary to decisively counter the hostile act or intent and ensure the continued safety of US forces or other persons and property they are ordered to protect. US forces may employ such force in self-defense only so long as the hostile force continues to present an imminent threat." Department of Defense, *Joint Publication 1-02, Dictionary of Military and Associated Terms*, 12 April 2001, As Amended Through 5 September 2003 (Washington, DC: US Government Printing Office, 2003) 475.

[13] This definition is in line with Webster's letter on the *Caroline* incident as discussed in Moore 412. It does not conform to the Bush Administration's proposed adaptation of "imminent threat" for reasons discussed in the remainder of the paper.

[14] Based on *Joint Publication 1-02* definition of preemptive attack: "An attack initiated on the basis of incontrovertible evidence that an enemy attack is imminent." See *Joint Publication 1-02* 415.

[15] Based on *Joint Publication 1-02* definition of preventive war: "A war initiated in the belief that military conflict, while not imminent, is inevitable, and that to delay would involve greater risk." See *Joint Publication 1-02* 419.

[16] Michael Glennon pointed out that the reality of Webster's definition of preemptive force would drive depiction of "classical imminent threat" hard to the right against "enemy attack"

since the attack leaves no time to deliberate. Michael Glennon, Professor of International Law, Tufts University, personal interview, 17 December 2003.

[17] Bush, *West Point Graduation Speech*.

18 Condoleeza Rice, "A Balance of Power That Favors Freedom," 1 October 2002, New York, *The Manhattan Institute for Policy Research*, 7 October 2003 <manhattan-institute.org>.

[19] NSS 5.

[20] Alex Keto, "Powell Defends Bush Foreign Policy, Says Critics Wrong," *Dow Jones International News,* 16 December 2003, Factiva, Harvard Library, 23 December 2003 <www.factiva.com>.

[21] Raphael Perl, "Terrorism and National Security: Issues and Trends, Congressional Research Service Issue Brief IB10119," updated 8 September 2003, *US Department of State Foreign Press Center*, 7 October 2003 <http://www.fpc.state.gov/documents/organization/25376.pdf>.

[22] The National Strategy for Combating Terrorism provides considerable insight into the clarity of thought on the plague that is terrorism and brooks no quibbling on trying to allow some terrorists and not others. "The enemy is terrorism—premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents." The White House, *The National Strategy for Combating Terrorism* (Washington, DC: The White House, February 2003) 1, 11-12, 4 April 2004 <http://www.whitehouse.gov>.

[23] Paul Wolfowitz, "Testimony as Delivered to the House Armed Services Committee: Fighting to Win, 25 September 2003, Updated 29 September 2003," *Defense Link News*, 30 September 2003 < http://www.dod.gov/speeches/2003/>.

[24] NSS 13-14.

[25] George W. Bush, "State of the Union Address," United States Capitol, Washington D.C., 20 January 2004, *The White House,* 9 February 2004 <http://www.whitehouse.gov>.

[26] Douglas J. Feith, "The Global War on Terrorism," Speech at Council on Foreign Relations, 13 November 2003, Georgetown University, Washington D.C., *Department of Defense*, 12 December 2003 <www.defenselink.mil/speeches/2003/>.

[27] John R. Bolton, "The Continuing Threat of Weapons of Mass Destruction", Remarks at the American Spectator Dinner, 12 November 2003, Washington D.C., *Department of State*, 13 November 2003 <http://www.state.gov/t/us/rm/26129.htm>.

[28] Audrey Kurth Cronin, "Behind the Curve: Globalization and International Terrorism," *International Security*, Vol. 27 No. 3 (Winter 2002/03) 30–58, LexisNexis, Harvard Library, 29 September 03 < www.lexis-nexis.com>.

[29] NSS 14.

[30] Peter Grier, "From Iraq To Libya, US Knew Little On Weapons: Doubts that Hussein had WMD raise questions about war's rationale and intelligence reliability," *The Christian Science Monitor*, Factiva, Harvard Library, 27 January 2004 <www.factiva.com>; John Diamond, "A Desert Mirage: How U.S. Misjudged Iraq's Arsenal: Evidence fit the allegations even if they were wrong," *USA Today.com* 4 February 2004, Factiva, Harvard Library, 20 March 2004 <www.factiva.com>; "Flat-pack proliferation," *The Economist* 7 February 2004, US Edition, LexisNexis, Harvard Library, 15 March 2004 < www.lexis.com>; Kenneth Katzman, "Iraq: Weapons Programs, U.N. Requirements, and U.S. Policy: Congressional Research Service Issue Brief IB92117," updated 2 September 2003, *US Department of State Foreign Press Center*, 7

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October 2003 <fpc.state.gov/documents/organization/15527.pdf>; Sharon A. Squassoni, "North Korea's Nuclear Weapons: How Soon an Arsenal? Congressional Research Service Report RS21391," updated 29 July 2003, *US Department of State Foreign Press Center*, 7 October 2003 <fpc.state.gov/documents/organization/24042.pdf>.

[31] Bush, *West Point Graduation Speech.*

[32] Lee Feinstein and Anne-Marie Slaughter provide a concise synopsis of the problems with current proliferation restrictions—"For many years, a small but determined group of regimes has pursued proliferation in spite of—and, to a certain extent, without breaking—the international rules barring such activity…The main international nonproliferation agreements stigmatize weapons or certain categories of weapons rather than regimes or leaders. Aiming at the weapons themselves rather than the states or regimes that develop or acquire them has been judged to be a more objective basis for international action. The problem with this approach is that its opening proposition is to treat North Korea as if it were Norway. This flaw has exposed the nonproliferation regime to abuse by determined and defiant regimes, especially those headed by dictatorial rulers. It is also the weakness that makes the NPT and, more broadly, the nonproliferation system vulnerable to charges that the only ones restrained by nonproliferation agreements are those nations that do not need restraining." See Lee Feinstein and Anne-Marie Slaughter, "A Duty to Prevent", *Foreign Affairs*, 1 January 2004, Factiva, Harvard Library, 21 March 2004 <https://www.factiva.com>.

[33] By propositions we mean conclusions, recommendations and assumptions offered for the readers' consideration and acceptance.

[34] The United Nations, *United Nations Security Council Resolution 1373* (New York: United Nations, 28 September 2003) 1-2, 7 January 2004 <http://www.un.org/Docs/scres>.

[35] Brad Roberts discusses the idea of "instant proliferation" as a concept that came into the "sharper focus in the 1990s…this is a process by which states buy weapons on the international market, steal them from unwitting guardians, or inherit them from predecessor states, thus circumventing time-consuming and in high-cost development programs." See Brad Roberts, *Weapons Proliferation and World Order: After the Cold War* (The Hague, The Netherlands: Kluwer Law International, 1996) 52.

3

Developing a Strategy to Fill the Gap

> *We have no difficulty in principle with focused military action being taken against international terrorists and those who harbour them. But military power should always be exercised in a principled way, and the principles of right intention, last resort, proportional means and reasonable prospects outlined in our report are, on the face of it all, all applicable to such action.*
>
> - International Commission on Intervention and State Sovereignty[1]

With existence of the gray zone a reality, developing a military strategy to deal with a maturing converged threat is imperative. Present strategic efforts to prevent terrorists and rogue states from obtaining and using WMD cross many fronts: diplomatic, economic, intelligence, law enforcement, and defense. Many of these initiatives have overlapping objectives, priorities, and capabilities but lack the harmonization needed to make the efforts effective. As the preceding analysis of the gray zone evinces, the US needs a properly crafted grand strategy to maximize military effectiveness against the converged threat. We maintain the conceptualization of a modified preemptive strategy to fight the threat identified in the NSS does not go far enough. However, the document does set a very important limitation on the use of force, suggesting the decision to use force is not one made lightly. Specifically it says, "the United

States will not use force in all cases to preempt emerging threats…We will always proceed deliberately, weighing the consequences of our actions".[2] The message is clear. Whatever strategy the United States selects must conform to this limitation.

STRATEGY GUIDANCE

Obviously, national goals and aims must inform the development of military strategy. To divide the two is to dismiss the war-proven necessity of subjugating military strategy to political objectives. For this research, however, we did not have access to the classified National Military Strategy. Nonetheless, we were able to seek political direction from other strategies written for the Global War on Terrorism. From these related documents we were able to deduce fairly precisely what the President needs the military to do. His guidance is summarized below:

- Do not rely solely on a reactive posture as we have in the past.[3]
- Stop terrorist attacks against the United States, its citizens, its interests, and our friends and allies around the world. Create an international environment inhospitable to terrorists and all those who support them. Act simultaneously on four fronts:
    - Defeat terrorists and their organizations.
    - Deny sponsorship, support, and sanctuary to terrorists.
    - Diminish the underlying conditions terrorists seek to exploit.
    - Defend US citizens and interests at home and abroad.[4]
- Do not permit the world's most dangerous regimes and terrorists to threaten us with the WMD.[5]
- Deny terrorists access and use of WMD.[6]

Clearly any effort to find a best-fit strategy must support these core war aims.

STRATEGY OPTIONS

What is the best strategy for the converged threat? As we saw in Chapter Two, current threats have changed so that they no longer come from great armies whose efforts to mass forces provide detectable actions that states can preempt. Instead, today's threat operates in the shadows and can emerge instantaneously. Self-defense seems incapable of dealing with these uncertain risks by acting too late. Yet equally problematic, these uncertain threats could lead the United States to take action earlier than what is legitimately allowed by the classical definition of preemption. It is prudent, therefore, to compare three classical strategies and one hypothesized strategy to find the best-fit option to combat converged threats. For analytical purposes, we define the four strategies as follows:

Self-Defense—Use of force in response to a hostile act or armed attack.[7]

Preemptive use of force—Use of force initiated on the basis of incontrovertible evidence that an enemy attack is imminent.[8]

Preventive use of force—Use of force initiated in the belief that military conflict, while not imminent, is inevitable, and that to delay would involve greater risk.[9]

Forcible counterproliferation (FCP)—Use of force in response to a convergent threat where there is substantial evidence of collusion between terrorists and rogue states in pursuit of weapons of mass destruction. While there is not incontrovertible evidence of an imminent attack, to delay taking action would be irresponsible.

FRAMEWORK FOR STRATEGY ANALYSIS

The discussion in Chapter Two might lead some to conclude the United States cannot logically fight a self-defense, preemptive or preventive war against a converged threat. Furthermore, such a conclusion may encourage critics to suggest any comparative framework we

propose is biased in favor of forcible counterproliferation. We caution that to do so is a premature judgment of the strategy. Bernard Brodie in "War and Politics" asserts strategy analysis is always significant because "the reasoning processes by which conclusions are reached are better than intuition. The objectivity adopted in such comparisons is more open, explicit, can be corrected and importantly, helps to reduce biases."[10] Brodie suggests, "strategy analysis does not always give answers—it will sharpen our receptivity to appropriate insights about specific strategic problems."[11] Such is our purpose here. Simply, we are looking for what works against the converged threat and how well the best strategy is prepared to deal with residual uncertainty.[12]

EVALUATING MILITARY STRATEGIES

The remainder of the chapter is a theoretical analysis of the strategies. First, we identify a cross section of criteria needed to cover the full spectrum of criticisms of the 2002 NSS found in Appendix A while adequately accounting for all four of the threat elements discussed in Chapter Two. To sharpen our focus we define eight comparative criteria captured in Table 1 based on our refinement of anticipated strategy requirements, our analysis of the criticisms of the 2002 NSS, and the war in Iraq. Each starts with a lead-in question to define the criteria focus and progresses to a description of that focus.[13]

Next, we evaluate the four strategies against the eight criteria enabling us to capture substantive analytical conclusions (See Appendix B for the analytical instrument). From these conclusions we deduce numerous conceptual propositions that enable us to posit forcible counterproliferation as the best strategy for combating the converged threat. In Chapter Four we amplify the analysis by subjecting the four strategies to a hypothetical case study comparison.

We acknowledge forcible counterproliferation as a strategic concept is untested by practice and as such our ability to deduce meaningful conclusions is constrained. Whereas some may suggest the war in Iraq is an example of FCP and should serve as a case study, we would disagree. For proof, they might say the United States was only focused on stopping a rogue state with WMD from surreptitiously transferring these weapons to international terrorists for use against America. However, this implication misses the point that the convergence of the Iraqi threat was never clearly established. Such an a posteriori contention overlooks the nature of the threat and the distinctive qualities that differentiate FCP from the other strategies, specifically prevention. The analysis that follows will make those distinguishing characteristics and differences clear.

Furthermore, we contend the theoretical analysis is beneficial for four other reasons: 1) by isolating strategic requirements we tend to prescribe more what FCP should be, not what it is, 2) we flesh out otherwise overlooked necessary assumptions, and 3) we come to understand how diplomacy must shape the strategic environment to enable FCP. Also, we gain some insight into how sensitive each of the four strategies is to the eight different decision factors. By following this methodology we will later be able to postulate a set of conceptual propositions to highlight the differentiating characteristics of each strategy, specifically FCP. We conclude the chapter by positing a complete description of forcible counterproliferation strategy.

	Criterion Title	Description
1)	Stops WMD attacks (pass/fail criteria)	Does the strategy have a high probability of stopping a terrorist-initiated WMD attack on the US, its allies and interests? Evaluating against this criterion requires consideration of all components of a threat, including the level of hostile intent, status of WMD capabilities for each of the adversary actors, and estimated timeline to an attack. This criterion must be met for a strategy to be considered feasible.
2)	Maximizes Force Flexibility	Does the strategy allow sufficient flexibility in use of force to utilize all appropriate elements of the military?
3)	Employs substantive trigger points	Does the strategy successfully utilize trigger points for all three components of the converged threat? Trigger points are defined thresholds for potentially initiating military action for each of the three threat components of the converged threat.
4)	Minimizes unintended consequences	Does the strategy allow accurate assessments of the threat components to reduce the likelihood of physical, economic, and political unintended consequences when implemented? Success at the criterion requires accurate, convincing knowledge of all the threat components to reduce potential for initiating military action against the wrong actors or targets.
5)	Sustains popular will	Does the strategy have a high probability of gaining popular domestic support? Success at the criterion requires accurate, convincing knowledge of all components of the threat to strengthen justification for dealing with an adversary.
6)	Respects responsible sovereignty	Does the strategy respect the sovereignty of those nations acting as responsible sovereign states? Each strategy is evaluated against current sovereignty definitions and then against recommended abrogated sovereignty designations.
7)	Maximizes likelihood of multilateral support and action	Does the strategy encourage coalition building and reduce likelihood of having to act unilaterally before, during, and after a conflict? Success at the criterion requires accurate, convincing knowledge of all the threat components to strengthen justification for dealing with an adversary.
8)	Denies legal seams	How successfully does the strategy prevent exploitation of seams in the international legal system by terrorists and rogue states? This criterion requires appraising strategy effectiveness at denying threatening actors the sanctuary of hiding behind outmoded UN Charter use of force restrictions. Each strategy is evaluated in the current environment and after the UN Charter is updated as proposed.

Table 1: Criteria Definitions for Strategy Evaluations

Decision criteria judgments

1) Most effectively stops WMD attacks (pass/fail criteria)—FCP most effectively stops WMD attacks by using force to defeat and disrupt a motivated actor not when an attack becomes imminent but when the threat has converged. The decision to act is based on an assessment of actor status, predetermined capability trigger points, risk analysis of reaction time, and determination of credible intentions. Prevention mistakenly acts too soon and too often and is unacceptable as a strategy. Preemption must wait until incontrovertible evidence is available yielding too much time to an actor; the risks simply outweigh the cost of waiting. It is too late to act in self-defense once an actor detonates a surprise bomb of catastrophic proportions. We reject for two reasons the self-defense argument that says by drawing down American activities abroad we reduce anti-American sentiment in the hopes such a move may reduce the chance of a WMD attack here in the United States.[14] First, hope as a means of defense is too risky and second, the destructive potential of the threat undermines this notion.

2) Maximizes force flexibility—FCP effectively uses HUMINT/espionage, linguists, special operations forces/special mission units (SOF/SMU), and additional infantry to identify trigger points early to gain additional flexibility against the converged threat.[15] By necessity, FCP initiates a fundamental review of the assumptions underlying Transformation. In doing so the strategy develops intelligence processes optimized for determining variability in all elements of a convergent threat. Furthermore, such a review seeks to leverage reaction time by adapting combat systems and operational concepts conceived to effectively counter the spectrum of unconventional capabilities earlier than conventional strategies. As key components of our existing military strategy, both preemption and prevention fail to anticipate the dominant unconventional methods employed by today's highly unpredictable actors. The overemphasis on

sensor technology, electronic intelligence, and effects based targeting hinders the agility needed for preemption to act earlier against analog threats. Self-defense does not employ offensive force and de facto fails to anticipate converged threats.

3) Employs substantive trigger points—More than any other strategy, FCP acknowledges the converged threat and reduced reaction time as the worst-case scenario for planning. Designed to be the most flexible strategy to preclude the worst case from happening, FCP links decision points with predetermined thresholds to initiate maneuver against converged threats in states that have abrogated their sovereignty. Each component of the threat is associated with one of the trigger points: 1) rogue state (actor + intent), 2) terrorists (actors + intent), and 3) WMD acquisition program (capability). FCP effectively manages risk and uncertainty to avoid acting too late by seeking only credible and consistent, though not perfect, intelligence to indicate a threshold is about to be crossed.[16] Preemption as a strategy uses the trigger point of imminent threat to initiate action but the intelligence standard to act is higher. Incontrovertible evidence of an imminent attack is rarely attainable.[17] Self-defense is the strategy least responsive to emerging threats but is a more rational approach than prevention. Prevention uses no standard for action other than presumption of a threat, giving it the unacceptable reputation as the shoot-on-suspicion strategy. Typically preventive operations, to the chagrin of the international community, are undertaken unilaterally.

4) Minimizes unintended consequences—self-defense results in little to no unintended military, economic, or political consequences because the strategy reacts only after an armed attack. Given the requirement for incontrovertible evidence, preemption has a high probability of targeting the correct actor or capability. Central to FCP is an assessment of potential unintended physical, economic, and political consequences and subsequent mitigation options.

Yet, the potential for failure is higher than preemption because the wrong actor or capability could be attacked at the wrong time when striking without unmistakable intelligence. We address this concern with an assessment of both strategic and accidental risk at the end of the section. Prevention uses a blunt instrument for what otherwise should be a surgical strike because the threat is so broadly conceived and crafted. This strategy is not predicated on minimizing damage rather it applies overwhelming force to destroy any and all suspected targets.

5) Sustains popular will—FCP strategy comes clean with the American people by first creating upfront reasonable expectations and second by pursuing an aggressive public relations campaign to keep the population informed. Some have argued that after 9/11 any President, regardless of party affiliation, would have declared preemption against emerging threats as a way to build public support and confidence.[18] However, post-war domestic support for the use of preemption is extremely tenuous given the Administration's perceived inability to demonstrate incontrovertible evidence of an imminent Iraqi threat.[19] Arguably this public mindset adversely affects the President's ability to strike preemptively in the future. On the surface, American support for UN Security Council Resolution 1373 might provide some justification for preemption yet the strategy is nonetheless inhibited by challenges of conventional sovereignty and the need for near-perfect intelligence. Similarly, if Iraq is defined as a prevention war, then most evidence suggests vacillating support for the President primarily as a function of the perceived manipulation of intelligence to make the case for war.[20] With prevention, force is not used as a last resort and public support problems come sooner and are more complex. With the resources allocated so far to fighting the war on terrorism, any strategy like self-defense that advocates absorbing a surprise attack of catastrophic proportions will have no domestic support.

6) Respects responsible sovereignty—FCP is the best military strategy under both conventional sovereignty and abrogated sovereignty. When implementing FCP today, American decision makers are not compelled to abide by the outmoded notion of conventional sovereignty upheld by the 1945 UN Charter.[21] However, ignoring the Charter is hugely unpopular, attracts unwanted world cynicism of US intentions, and eviscerates the effectiveness of FCP. With or without international support, FCP is the most adaptable strategy for preventing the exploitation of legal seams, especially the use of ungoverned areas by non-state actors.

FCP is also highly adaptable to the current geostrategic environment and seeks to capture these changes—UNSCR 1373 and rogue state status—to advance internationally a new concept of abrogated sovereignty. Once the threshold of abrogated sovereignty is crossed, a state is legally subject to military action. Importantly, FCP shifts responsibility for acceptable state behavior from the international community to where it belongs, on the shoulders of state leaders.[22] Once the UN declares a state's sovereignty abrogated, that state de facto has crossed the intent threshold for a converged threat. The current UN Charter constrains preemptive action to uphold sovereignty, even of reluctant and unwilling states, though UN support for force in Bosnia, Kosovo, and Afghanistan may signal increasing flexibility. Abrogated sovereignty might give preemption some legitimacy with traditional noninterventionists but the standard of incontrovertible evidence continues to limit effectiveness. The UN Charter mostly upholds the tradition of self-defense. Since prevention is unconstrained by the classical notions of sovereignty and non-intervention, the international community generally views it as unlawful. Both self-defense and prevention would be unaffected by advancing a concept of abrogated sovereignty.

7) Maximizes multilateral support and action—Article 51 of the UN Charter grants the right of self-defense once attacked. As the United States experienced firsthand after 9/11, states that absorb the initial blow will likely initially enjoy magnanimous multilateral support. Under existing norms, FCP can reasonably expect to continue building "coalitions of the willing" outside the purview of the UN Security Council.[23] To maximize multilateral support, FCP drives a fundamental redesign of the international use of force system to permit selective application of force against converged threats in the gray zone. By doing so, the United States uses diplomacy to leverage early support from the UN, European Union, NATO, and other regional organizations. The United States thereby garners legitimacy as the world's military superpower that begets multilateral participation (monetary, organizational, and military) before the need to use force arises.

Preemption is still viewed with suspicion under existing use of force rules and therefore multilateral support is not assured until the threat is proven to be imminent. While preemption gains greater legitimacy for being more conservative than FCP, once a new use of force framework is internationally accepted, preemption remains ill-suited for dealing with the converged threat. The very low standard associated with using prevention renders it morally unjust and unlawful. Hence, multilateral condemnation is the typical response to prevention.

8) Denies legal seams—Given today's legal construct, FCP aggressively engages all states diplomatically before using force. Doing so establishes political and legal conditions for the rapid and proportionate application of force to deny actors sanctuary, training, facilities, C2 nodes, and transfer of WMD technology.[24] FCP does not wait for perfect intelligence to act. Nonetheless, FCP is proactive about working with state governments early to identify converging threats in order to build international support, confidence, and legitimacy for the use

of force. As international norms change to incorporate the current use of force realities, FCP is ideally designed to work earlier within the framework to counter a threat when force can first be used.[25] Preemption must wait for incontrovertible evidence to act and therefore is not acceptable. And for prevention, the standard to act is too loose, too intrusive, and will eventually violate civil rights and harm noncombatants in the targeted state. Self-defense does nothing to deny legal exploitation—as a strategy it only can react once a provocation has occurred. Both preemption and self-defense act too late and even adapting international norms has no impact. Prevention is illegal in either case.

Summary of Analysis

In summary, we assessed the pass/fail criteria and effectiveness of each strategy. In order, self-defense is unacceptable because it is politically unsustainable—the American people will not tolerate a government that does not take steps to disrupt a WMD attack. Clearly, preemption is acceptable but fails as a strategy because it is inadequate to counter a converged threat by failing to disrupt WMD attacks early enough. On the contrary, prevention is very adequate but is not consistent with the law of war, overtaxes the military, and is politically unacceptable. Conceptually, forcible counterproliferation is designed to disrupt a converged threat. FCP provides strategic discrimination and most effectively synchronizes diplomatic and military power. FCP is acceptable both domestically and internationally, is adequate for the strategic aim, and demands feasible resources. It is an excellent fit for using force against the nexus of terrorists, rogue states, and WMD.[26]

Risk Assessment

Without question, a national military strategy for stopping the nexus of terrorists and rogue states pursuing WMD must do so with acceptable risk while embracing uncertainty and

surprise. FCP embraces uncertainty but provides markers for using force earlier in the decision cycle than, for instance, preemption. We propose a simple model for identifying how FCP is useful for mitigating military and political risk. First, we define strategic risk as the probability our security is threatened because of a lost opportunity to act.[27] Second, accidental risk is the probability of miscalculation in striking the appropriate target at the right time, a by-product of acting first (earlier in the intelligence cycle). We use S-shaped curves to depict the idea that catastrophic threats from WMD can emerge much more quickly than in the past.

Figure 7 portrays strategic risk as a function of reaction time and degree of threat. Imposed on top of the strategic risk curve are relative time positions when strategies are employed to disrupt the threat. In this case, prevention is employed earlier than forcible counterproliferation, which is employed earlier than preemption. Self-defense reacts after an attack, depicted by the 9/11 splash—clearly too late.

Figure 8 shows the risk relationship between reaction time and probability of miscalculation in striking the correct target at the right time. Again, the strategies are imposed on top of the risk curve. Here, prevention reacts soonest but the probability of miscalculation for striking the correct target is very high. FCP is lower on the curve because the decision to act is made using trigger points. Preemption is lower still on the curve but the ability to strike with confidence is offset by the prospect of having to do so in a crisis scenario.

Figure 9 superimposes both risk curves on the same chart and illustrates how FCP is extremely useful for mitigating both strategic and accidental risk. The curves demonstrate the sequential relationship between the four strategies in terms of reaction time. The location of FCP on the curves illustrates how it most effectively mitigates strategic and accidental risk. Furthermore, the curves demonstrate the complementary relationship between FCP, preemption,

and self-defense and underscores why we recommend FCP not replace preemption and self-defense. Instead, FCP should be understood as simply the best strategy for mitigating risk. Should it fail however, the nation should employ preemption and failing that, self-defense.

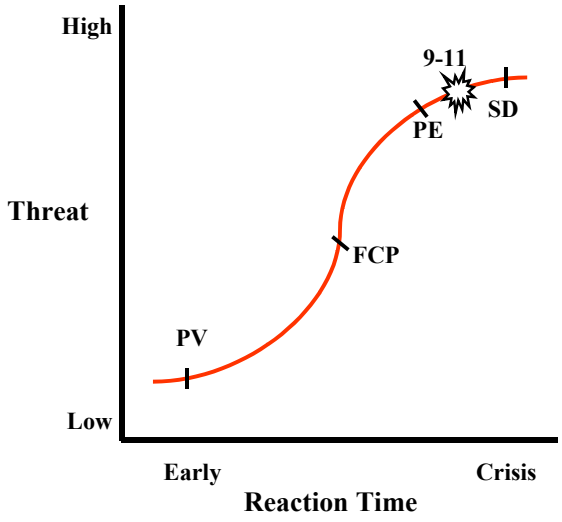

Figure 7: Severity of Threat

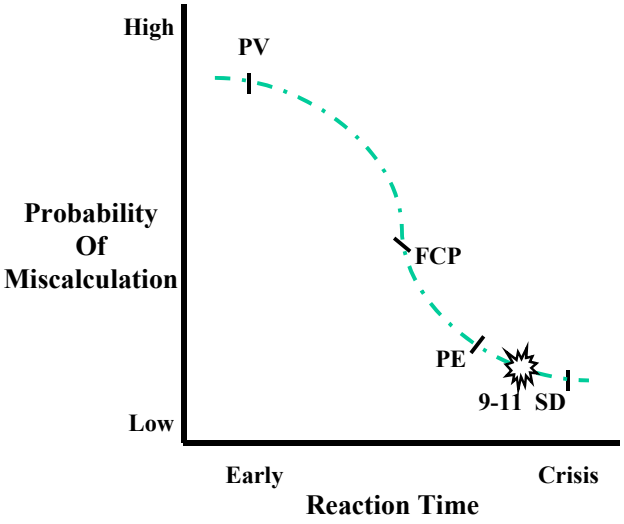

Figure 8: Probability of Miscalculation

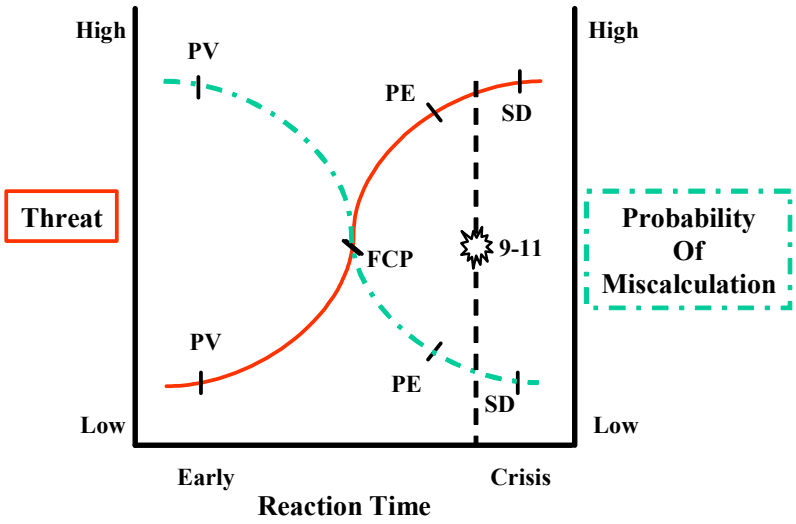

Figure 9: Risk Overlay

CONCEPTUAL PROPOSITIONS

The conclusions derived from the analysis above compel numerous conceptual propositions integral for finding a "best fit" strategy to use force against converged threats. We will differentiate forcible counterproliferation from prevention and elucidate why it constitutes strategic thinking "outside of the box". The conceptual propositions also help to identify a comprehensive link between the use of diplomacy and the other elements of soft power to set conditions for the use of force to disrupt the converged threat.[28] The presumption that strategy must evolve to fight the current threat is foundational to the following assertions:[29]

International Implications and Requirements

- FCP could serve as the catalyst for the fundamental redesign of the international use of force system recommended in Chapter Two. FCP effectiveness is solidified after modifying traditional sovereignty to include the concept of abrogated sovereignty.
- As experience in Iraq illustrates, global legitimacy is value added and stimulates the United States to remain internationally engaged. While the United States will protect its vital national interests regardless of international rules and norms, the perceived unilateral use of preemption against Iraq failed to garner international legitimacy for the United States.[30] Recognition of this reality animates the search for a new strategy. After adjusting international norms for the use of force, the United States could leverage diplomatic support from the United Nations, European Union, NATO, and other regional organizations to disrupt a converged threat. If not employed correctly, however, FCP could suffer from international lack of legitimacy.

- Initially, FCP monitors converging threats to enable decision makers time to apply soft instruments of power. Using force as a last resort after the convergent threat threshold is crossed distinguishes FCP from prevention.
- Applying the trigger points linked to FCP could have considerable deterrent value. Essentially, once a state has crossed all three thresholds the UN Security Council (or NATO) imposes abrogated sovereignty status. Public pronouncements of trigger point violations motivate cost-benefit tradeoffs and achieve deterrence with violator states.
- FCP expects states to act responsibly and be accountable to international standards of conduct. As a result, the burden of proof for responsible behavior falls to the rogue state, not the international community—a fundamental shift in traditional use of force thinking.[31]
- FCP is not uniquely designed for affecting regime change and imposing democracy. However, FCP can be used as a quick in and out operation leaving basic elements of state government intact or it can disrupt the converged threat and contend with the underlying political causes by forcing a regime change.
- FCP would minimize the possible destabilization of a state's economy and/or political leadership because intervention is undertaken with international support.

National Implications and Requirements

- The aforementioned changes to international norms would set in motion the need to review numerous associated American policy and legal changes: 1) when FCP is employed the President needs the legal authority to treat detainees as POWs—the Geneva Convention's categories of armed conflict and war are not sufficient for the converged threat,[32] 2) the military tactical rules of engagement must be adapted for use against

converged threats,[33] and 3) the United States must review posse comitatus to establish new appropriate boundaries for using the breadth of military capabilities in operations synchronized with law enforcement.[34]

- The Proliferation Security Initiative (PSI) is a current example of functioning cooperation between law enforcement and the military.[35] Presently PSI is not subordinate to but stands alone from a military strategy of preemption and self-defense. Instead, FCP should encompass PSI allowing it to enhance force effectiveness against the converged threat by refocusing interagency cooperation.
- FCP requires a disciplined public relations campaign to build domestic support. The President arguably would enjoy strong support by explaining the need to act when consistent intelligence is available but before perfect intelligence is known.[36]
- Given the shortcomings of preemption, FCP mandates a fundamental reorientation of intelligence collection systems, force structure, equipment acquisition, and training designed specifically for fighting the converged threat. Upon completion of this review, joint doctrine writers would develop associated tactics, techniques, and procedures for military operations other than war designed to destroy, defeat, or disrupt the converged threat.

FCP is Not Prevention

Without a consistent notion of the threat and predefined trigger points, prevention:

- Can inspire unmitigated aggressive attacks and lacks both moral and legal approval,
- Encourages unilateral use of force to disrupt suicide terrorists and rogue states pursuing WMD,

- Shoots on suspicion and increases the probability of hitting wrong targets, collateral damage, and unintended consequences, and
- Lacks national support and international credibility and confidence.

Figure 10 provides a graphic depiction of the difference between FCP and preventive use of force.

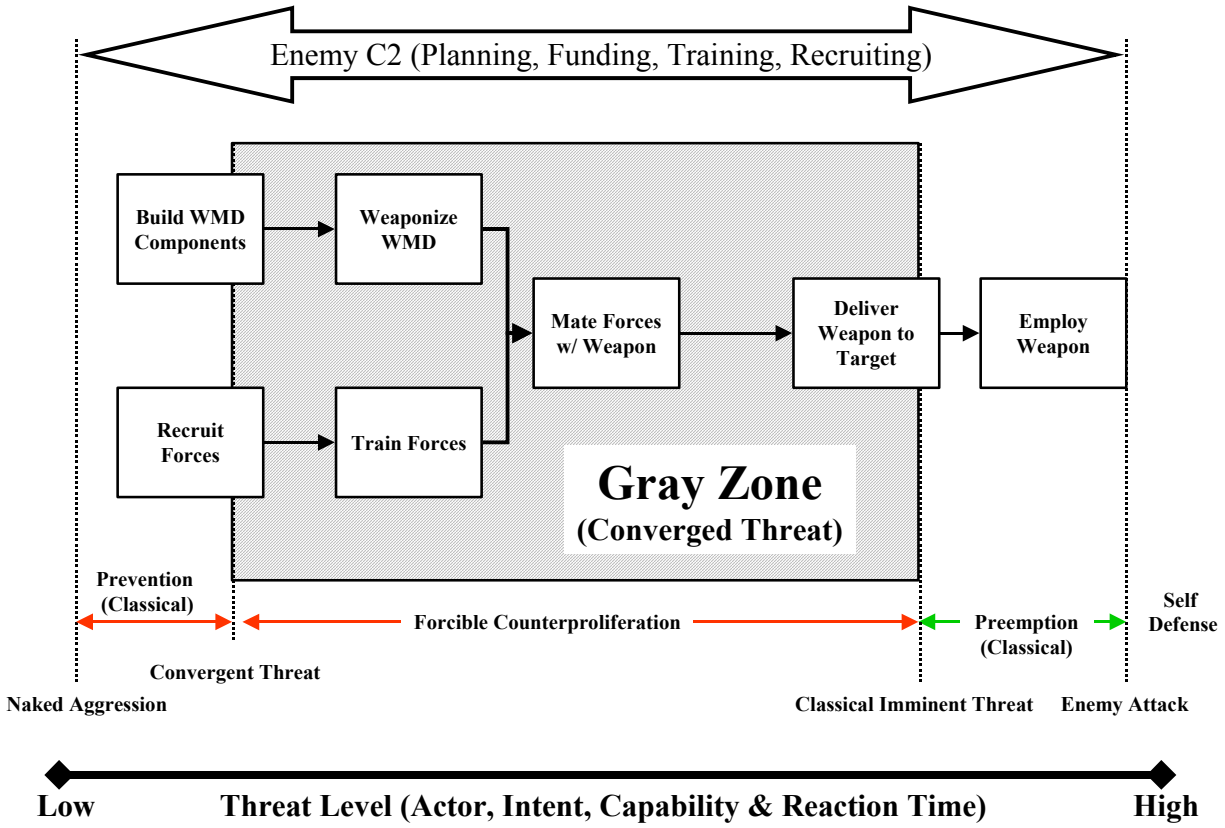

Figure 10: WMD Acquisition in the Gray Zone

FORCIBLE COUNTERPROLIFERATION: CLOSING THE STRATEGY GAP

The preceding analysis leads us to posit the following description of a forcible counterproliferation strategy.

War Aim—deny terrorists access and use of WMD.[37]

National Interest—secure the nation, our interests, and our allies from a catastrophic WMD attack.

Threat—FCP is specifically designed to disrupt the converged threat of rogue states and terrorists pursuing WMD.

Decisive Effort—the offensive use of force when there is strong and consistent intelligence that an adversary has the intent and is attaining a credible capability to pose a significant threat of WMD attacks. US forces initiate military action to specifically stop the nexus of rogue states and terrorists pursuing WMD, the converged threat center of gravity. The assessment to use force is made with respect to three predetermined trigger points: rogue state designation, support for terrorists, and existence of a WMD acquisition program.[38] Reaction time is critical and to delay taking action would be irresponsible.

When force is used against uncooperative states that have abrogated their sovereignty, FCP integrates joint, combined, and law enforcement forces to achieve strategic synergy and interoperability. By doing so the strategy most effectively denies exploitation of legal seams.

Strategic strikes scaled appropriately for the target are conducted simultaneously to destroy, disrupt, or defeat the converged threat by attacking their camps, C2 nodes, leadership, transportation, sanctuaries, and material capabilities.[39] These strikes will create opportunities for future attacks when coupled with an iterative planning process and rapid decisive operations.

FCP can be used as a quick in and out operation leaving basic elements of sovereignty intact or it can disrupt the converged threat and contend with the underlying causes by forcing a regime change. The decision to affect regime change is a function of reaction time, maturity of the WMD threat and state disregard or unresponsiveness to international resolutions.

End State—converged threat is disrupted and returned to pre-trigger point status quo.

Notes

[1] Gareth Evans and Mohamed Sahnoun, *The Responsibility To Protect: Report of the International Commission on Intervention and State Sovereignty* (Ottawa:International Development Research Centre, 2001) IX, 21 March 2004 <http://www.idrc.ca>.

[2] NSS 15-16.

[3] NSS 15.

[4] The National Strategy for Combating Terrorism 11-28.

[5] The White House, *The National Strategy to Combat Weapons of Mass Destruction* (Washington, DC: The White House, December 2002) 1-2, 4 April 2004 <http://www.whitehouse.gov/news/releases/2002/12/WMDStrategy.pdf>.

[6] Extracted from an unclassified brief entitled "J5, Department of Defense War on Terrorism" presented by BG Vincent K. Brooks, USA at the Kennedy School of Government, Harvard University, 19 August 2003.

[7] As defined in Chapter Two.

[8] As defined in Chapter Two.

[9] As defined in Chapter Two.

[10] Bernard Brodie, *War and Politics* (New York: The Macmillan Company, 1973) 463.

[11] Brodie 451.

[12] Brodie 462.

[13] We evaluated the four military strategies against a decision matrix designed to thwart the converged threat. The matrix was based on criteria principally originating from criticisms of the NSS. The matrix is included in Appendix B.

[14] Eugene Gholz, Daryle G. Press, and Harvey M. Sapolosky, "Come Home America." *International Security,* Volume 21 Issue 4 (Spring 1997), EBSCO, Harvard Library, 14 March 2004 <http://www.ebnet.com>.

[15] This article quotes a 3rd Infantry Division Commander that he had perfect situational awareness on the ground but no cultural awareness. He also said he had great technical intelligence but for the wrong enemy. See Steven Israel, and Robert Scales, "Iraq Proves It: Military Needs Better Intel," *New York Daily News*, 7 January 2004, *DOD Early Bird,* 8 January 2004 <http://ebird.afis.osd.mil>.

[16] See discussion of trigger points in Chapter Two.

[17] Michael Glennon provides clarification as to why the UN Charter adapted the standard of armed attack as the predicate for the use of force. He says, "if profligate use of force was ever to be reined in, narrower limits had to be imposed. And those limits had to set out with a bright line; qualifying defensive rights with words like "reasonable," "imminent," or even "necessary" would leave states too much discretion and too much room for abuse." By extension, the US standard of incontrovertible evidence grows out of this standard and suggests the highly subjective nature of "imminent" and that "imminent" is really a question of degree, not time. Hence, as Douglas Lovelace says, imminent attack conveys a much stronger sense of time when qualifying threats. Furthermore, the notion of imminent threat has no value when evaluating threats from non-state actors and/or rogue states that can "instantaneously" acquire WMD. See Michael J. Glennon, "Preempting Terrorism; The case of anticipatory self-defense," *The Weekly*

Notes

Standard, Volume 7 Number 19 (28 January 2002), LexisNexis, Harvard Library, 3 November 2003 <http://www.lexis-nexis.com>.

[18] James J. Wirtz and James A. Russell, "U.S. Policy on Preventive War and Preemption," *The Nonproliferation Review* Spring 2003: 119.

[19] Graham Allison, "How to Stop Nuclear Terror," *Foreign Affairs* Volume 83 Number 1 (January/February 2004): 68.

[20] Jeff Record tracks the poll numbers reflecting the diminishing public support for the war in Iraq. See Jeff Record, *Bounding the Global War on Terrorism* (Carlisle Barracks, PA: Strategic Studies Institute, 2003) 34-38.

[21] President Bush stated in the 2004 State of the Union Address: "We don't need a permission slip from anybody to defend ourselves." See Bush, 2004 State of Union Address.

[22] Evans and Sahnoun IX.

[23] The White House says there were 48 countries in the Coalition of the Willing. See "White House Press Release, 21 March 2003," *The White House,*17 April 2004 <http://www.whitehouse.gov/news/releases/2003/03/20030321-4.html>

[24] The National Strategy for Combating Terrorism identifies 4 types of states. 1) Willing and Able States – states that have the will and resources to combat terrorism with us at the state, regional and even global level. 2) Weak States – States that are committed to fighting terrorism but lack the capacity to fulfill their sovereign responsibilities. 3) Reluctant States – States that are capable of fighting terrorism but prove reluctant for a variety of reasons. 4) Unwilling States – States that sponsor or actively provide sanctuary to terrorists. See National Strategy for Combating Terrorism 20-21.

[25] David Frum and Richard Perle, *An End to Evil: How to Win the War on Terror* (New York: Random House, 2003) 35.

[26] **Acceptability—**Operation plan review criterion. The determination as to whether there is consistent with the law of war; and is militarily and politically supportable. **Adequacy—** Operation plan review criterion. The determination as to whether the scope and concept of a planned operation are sufficient to accomplish the task assigned. **Feasibility—**Operation plan review criterion. The determination as to whether the assigned tasks could be accomplished by using available resources. See *Joint Publication 1-02* 1, 6, and 194.

[27] NSS 15.

[28] For a discussion of soft power see Joseph S. Nye Jr., *The Paradox of American Power: Why the World's Only Superpower Can't Go It Alone* (New York: Oxford University Press, 2002) 8-12.

[29] Carl von Clausewitz tells us: "The most far-reaching act of judgment that the statesman and the commander have to make is to establish by that test the kind of war on which they are embarking; neither mistaking it for, not trying to turn it into, something that is alien to its nature." Carl von Clausewitz, *On War*, ed. and trans. Michael Howard and Peter Paret (New York:Alfred A. Knopf, 1993) 68.

[30] Glennon Interview.

[31] For example, most of the world agrees it was sound policy to remove Saddam Hussein. Regrettably, the success of the policy has been largely overshadowed by questions regarding the justification for the war and the apparent lack of intelligence. Our emphasis on trigger points places the focus back on rogue state pursuing WMD. See Wirtz and Russell 121.

Notes

[32] The Administration is facing a legal quandary with both US citizens detained for terrorism and the detainees at Guantanimo Bay. If US citizens detained for terrorism are not classified as combatants than they must be given due process rights and cannot be incarcerated until the "war" is over. Likewise, when the detainees at Guantanimo are classified as POWs, the US is technically not allowed to interrogate them as stipulated by the Geneva Convention. As Kenneth Roth points out, as a signer of the Geneva Convention, the United States is constrained by outmoded notions of "armed conflict" and "war" that in-turn determine detainee status as combatant or non-combatant. See Kenneth Roth, "The Law of War in the War on Terror, " *Foreign Affairs* Volume 83 Number 1 (January/February 2004): 2-7.

[33] Zajac 87.

[34] William Arkin suggests the US needs to reevaluate the traditional line between military action and surveillance to ensure the military is not overstepping the boundaries laid out in the Posse Comitatus Act of 1878. See William M. Arkin, "Mission Creep Hits Home: American Armed Forces are Assuming Major New Domestic Policing and Surveillance Roles," *Los Angeles Times*, 23 November 2003, LexisNexis, Harvard Library, 24 November 2003 <http://www.lexis-nexis.com>.

[35] Allison 67.

[36] John Lewis Gaddis says Bush has yet to make the connection between grand strategy and domestic politics, what he refers to as the "biggest failure of so far." Gaddis, Grand Strategy.

[37] Some of the strategic concepts are taken from the briefing by BG Vincent K. Brooks cited earlier.

[38] See Chapter 3 for discussion of trigger points

[39] US Department of Defense, *Quadrennial Defense Review Report* (Washington, DC: DOD, 30 September 2001) 12 (text and footnote), 4 April 2004 <http://www.defenselink.mil/pubs/qdr2001.pdf>.

4

Applying Military Strategies to Current Cases

APPLYING THE STRATEGIES

To test the validity of the FCP strategy against real-world conditions, we analyze four hypothetical case studies containing various combinations of the three converged threat components. Each case study is evaluated against the decision criteria developed in Chapter Three. Our analysis employs a macro-level examination of the different cases to compare the four strategy options. To simplify the analysis, we adopt the following self-imposed biases:

- To increase effectiveness against stopping the threat of a WMD attack, if two or more strategies can be successful, we select the most aggressive strategy.
- We analyze the WMD threat as a single entity despite potentially very different approaches for biological, chemical, and nuclear acquisition programs.[1]
- We will select an overall Most Effective Strategy using a subjective roll-up of the eight criteria with strong emphasis on the stops WMD attack criterion.
- We assume recommended changes to international norms on abrogated sovereignty and the use of military force were established US policy at a minimum.
- The final Sanctioned Strategy is determined by filtering the Most Effective Strategy with the abrogated sovereignty designation.

Table 2 is a summary of the results from our strategy analysis of the four case studies. In three of the four case studies, FCP is the Most Effective Strategy. However, we evaluate each state against the converged threat trigger points developed in Chapter Two. An affirmative determination of all three trigger points causes responsible nations to declare the infringing state's sovereignty abrogated, a requirement for applying FCP. Since Syria and Pakistan do not meet all three trigger point criteria, FCP is not a sanctioned option.

	Pakistan	N. Korea	Iran	Syria
CRITERIA				
Stop WMD attacks	**FCP**	**SD**	**FCP**	**PE**
Maximize force flexibility	**FCP**	**FCP**	**FCP**	**FCP**
Employ trigger points	**FCP**	**FCP**	**FCP**	**FCP**
Minimize unintended consequences	**SD**	**SD**	**FCP**	**PE**
Sustain popular will	**FCP**	**SD**	**FCP**	**FCP**
Respects responsible sovereignty	**SD**	**FCP**	**FCP**	**SD**
Maximize multilateral support	**FCP**	**SD**	**PE**	**PE**
Deny legal seams	**FCP**	**FCP**	**FCP**	**PE**
MOST EFFECTIVE STRATEGY	**FCP**	**SD**	**FCP**	**FCP**
TRIGGER POINTS				
Rogue State	No	Yes	Yes	Yes
Terrorist Supporter	No*	Yes	Yes	Yes
WMD Program	Yes	Yes	Yes	No
ABROGATE SOVEREIGNTY?	**No**	**Yes**	**Yes**	**No**
SANCTIONED STRATEGY	**SD****	**SD**	**FCP**	**PE****
Self Defense	**SD**			**PE**
Classical Prevention	**PV**			**FCP**

* Terrorist camps in ungoverned and remote areas
** States not sanctioned under Abrogated Sovereignty triggers can not be targeted for FCP

Table 2: Summary of Case Study Results[2]

Pakistan

Pakistan's leader, President Musharraf, is a strong supporter of the United States and the war on terrorism. As the recent attempts on his life show, he maintains a precarious balance supporting the US while simultaneously dealing with those who oppose his pro-west stance.

Despite aggressive efforts against terrorists, his domestic political support is undercut by publicly denying terrorist elements such as Al Qaeda the use of ungoverned areas around the Afghan border.

Forcible counterproliferation taps the flexibility of the US military to forcefully deal with terrorists in the ungoverned areas of Pakistan. However, any strategy more aggressive than self-defense causes significant internal problems for Pakistan and should be subject to the approval of Pakistani senior leadership. While President Musharraf is no apparent friend of his terrorist squatters, he certainly does not fully control the regions they inhabit, probably does not fully control his military, and has less than complete support of his populace. President Musharraf's enigmatic handling of the nuclear scientist, Dr. Abdul Qadeer Khan, confirms the tightrope he must walk.

Therefore, while we conclude an FCP strategy is most effective for the threat in Pakistan, a self-defense strategy is the sanctioned strategy that respects Pakistani sovereignty while minimizing unintended consequences. A self-defense strategy allows US-Pakistani combined military operations with Musharraf's approval. These realities do not diminish the need to plan a full FCP contingency for Pakistan. Should Musharraf lose power, it is conceivable the resulting state chaos would result in Pakistan abrogating its sovereignty. In this eventuality, the converged threat thresholds are crossed and FCP is authorized.

North Korea

North Korea's admission that it cheated on the 1994 Agreed Framework threw the entire nonproliferation community into a quandary. Heralded as a model for the carrot and stick diplomacy approach to preventing the expansion of nuclear states, North Korean deception showed the inherent lack of certainty in dealing with rogue states on any level other than regime

change. The United States could, for example, put the North Koreans on notice for non-compliance with international standards and threaten the use of force. Doing so would marginalize North Korean denial, deception, and delay tactics consistently used even through the recent 6-Party Talks and give credence to the potential deterrence value of trigger points.

Since North Korea has already crossed the threshold for abrogated sovereignty status, the proactive nature of an FCP strategy is well suited to dealing with the current situation. The strategy maximizes the considerable US military flexibility provided by precision attack forces and special operations units. However, North Korea's dispersion of their nuclear programs since 1994 makes the success of any surgical strike unlikely. Unfortunately, it appears that only invasion and regime change can resolve the growing crisis. With a high probability of massive military and civilian casualties on both sides, the primary military strategy remains de facto self-defense. The current crisis illustrates the danger of letting a rogue nation skulk along the road to nuclear weapons for far too long before taking decisive, verifiable action.

Iran

In many ways Iran poses the worst-case scenario envisioned by the NSS. As a rogue state with the resources and desire to pursue WMD programs and long-standing ties to terrorist organizations, the only reprieve is that Iran does not yet appear to have nuclear weapons. It remains to be seen whether the recent European efforts to confront the Iranians on their nuclear weapons development program will prove fruitful.

The dynamics of the Middle East require a flexible and proactive military approach only offered by an FCP strategy. FCP will provide a level of deterrence not yet realized with current ill-defined strategy options. By leveraging well-defined trigger points to identify decision points for military action, FCP is bolstered by the strong US military presence and proven success

record in the region. However, recent negotiations emasculate the likelihood of gaining multilateral support for any military activities beyond a classical preemption strategy. To avoid a similar situation to North Korea in 1994, the world community needs to resolve the situation quickly or face increasing uncertainty in controlling the Iranian threat.

Syria

Syria is a US designated terrorist supporter and a rogue state that is one of the last autocratic, anti-western governments of the Middle East. Syria's consistent support of terrorist organizations dates back decades. It is only the inability to confirm Syria's pursuit of WMD that keeps the state from abrogating its sovereignty.[3] Importantly though, without such a designation, FCP is not an option.

Therefore, while FCP is the Most Effective Strategy for this situation, classical preemption is the most aggressive sanctioned option since the WMD Acquisition Program trigger point has not been met. Preemption is more proactive than prevention at minimizing unintended consequences. Again, similar to Pakistan, the evidence of a Syrian WMD program would immediately cause the United States to classify it a converged threat and the state would abrogate its sovereignty. We also recommend the United States prepare FCP contingency plans for Syria in anticipation of finding evidence of a WMD program.

Case Study Summary

In three of the four cases, an FCP strategy is considered most effective. However, in only one of the four cases is FCP allowed. Regrettably, the threat in North Korea appears too mature for any strategy other than self-defense. It is unlikely there is sufficiently accurate intelligence to deny the North Koreans from becoming a nuclear power other than through preventive attack in the very near future. The decision to attack must be predicated on the hope they have not

completed building their weapons. Syria's WMD restraint restricts the use of FCP despite their long-standing support of terrorists. It is possible the Assad government, currently under pressure to help control the terrorist threat in the region, might covertly cooperate with the US to support a limited FCP strategy. Without such an agreement only classical preemption in the face of a certain imminent threat is allowed under the constraints we propose.

STRATEGY PROPOSITIONS

Analyzing use of force against the four case studies provides additional insight:

- FCP should not replace the general framework for the Global War on Terrorism. The strategy's success is based on adherence to the primary objective of denying terrorists and rogue states access to and use of WMD, a very specific threat in the larger war on terrorism. Stretching FCP to cover all the diverse threats within the Global War on Terrorism negates the advantages of the strategy and potentially destroys the quest for greater multilateral support.
- Countering WMD acquisition after the fact is difficult, especially when the state that proliferates is a militarily dangerous nation like North Korea. Nuclear weapons in particular change the regional balance of power and drive down the potential success of any other military strategy short of full-scale invasion. This identifies a strong need for early, decisive intervention justified by well-defined trigger points.
- Both the Syria and Pakistan cases validate the utility of trigger points. These states are well on the road to abrogating their sovereignty, exposing how quickly a responsible state can go from acceptable to unacceptable behavior. To cross the final threshold, Syria needs only to initiate a WMD program while Pakistan must decide to support terrorists.

Developing and promoting clearly defined trigger points gives states notice of sovereign responsibilities.

- To reintroduce deterrence against the converged threat, DOD must develop flexible FCP responses grounded in the precept of abrogated sovereignty tied to trigger points.
- The concept of abrogated sovereignty relieves the responsible nations of the world from the unfair burden of constantly having to prove bad actors are truly irresponsible. Currently, Iran and North Korea may be cooperating with international negotiators to control their WMD programs or they may just be stalling for time. Holding these states accountable to the abrogated sovereignty principles moves the burden of proof to them and immediately qualifies them for military action.

Notes

[1] Owen Cote points out very clearly how any "security strategy that fails to acknowledge those differences (among such weapons) and their consequences…is doomed to failure. We recognize the need for differentiation, specifically in the development of separate capability trigger points but also believe there is utility in developing an overall strategy for WMD that lays the framework for dealing with the specific differences." Owen R. Cote, "Weapons of Mass Confusion: A Security Strategy Doomed to Failure," *Boston Review* (April/May 2003), 8 March 2004 <http://www.bostonreview.net/BR28.2/cote.html>.

[2] For the purposes of this paper, each of these trigger points is assessed using our qualitative analysis of the open press. Citations are provided to give overall insight on the unclassified information recognizing there is probably classified information that allows more accurate analysis for real-world application of our suggested strategy. Unless specifically noted, all articles were accessed via LexisNexis, Harvard Library <http://www.lexis-nexis.com//.

- Pakistan: "Still Standing", *The Economist,* 20 December 2003, US Edition, accessed 15 March 2004; "Payback Time", *The Economist*, 28 June 2003, US Edition, accessed 15 March 2004; Seymour M. Hersh, "The Deal: Why is Washington Going Easy on Pakistan's Nuclear Black Marketers?, *The New Yorker*, 8 March 2004, accessed 15 March 2004; Adam Piore, Zahid Hussain, Sami Yousafzai, and Ron Moreau, "Enemies in High Places? It seems Musharraf's Attackers had Good Intelligence," *Newsweek*, 12 January 2004, US Edition*,* accessed 8 March 2004; Department of State, Bureau of Democracy, Human Rights, and Labor, *Pakistan, Country Reports on Human Rights Practices-2003* (Washington DC: Department of State, 25 February 2005), 15 March 2004 <http://www.state.gov/g/drl/rls/hrrpt/2003/27950.htm>.

Notes

- North Korea: John R. Bolton, Under Secretary for Arms Control and International Security Affairs, "A Dictatorship at the Crossroads: Speech to East Asia Institute:31 July 2003," Seoul, South Korea, *Department of State*, 15 March 2004 <http://www.state.gov/t/us/rm/23028.htm>; "Diplomacy's Last Chance", *The Economist,* 6 September 2003, US Edition, accessed 15 March 2004; James A. Kelly, "Regional Implications of the Changing Nuclear Equation on the Korean Peninsula", Testimony before the Senate Foreign Relations Committee, Washington D.C., 12 March 2003, *Department of State,* 15 March 2004 <http://www.state.gov/p/eap/rls/rm/2003/18661.htm>; George Wehrfritz, Hideko Takayama, and B. J. Lee, "Driving a Hard Bargain," *Newsweek*, 21 April 2003, Atlantic Edition, accessed 15 March 2004; Department of State, "Background Note: North Korea: Profile", 15 March 2004 <http://www.state.gov/r/pa/ei/bgn/2792.htm>.
- Iran: "Ebb tide; Iran, Libya and nukes", *The Economist,* 13 March 2004, US Edition, accessed 15 March 2004; International Atomic Energy Agency, *Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran, Resolution adopted by the Board on 13 March 2004, GOV/2004/21* (New York: International Atomic Energy Agency, 2004), 15 March 2004 <http://www.iaea.org/Publications/Documents/Board/2004/gov2004-21.pdf>;
- "IAEA Board Won't Refer Country to Security Council," *Nuclear News*, January, 2004, accessed 15 March 2004; Department of State, "Background Note: Iran: Profile," 15 March 2004 <http://www.state.gov/r/pa/ei/bgn/5314.htm>; "U.N. agency remains deadlocked on censuring Iran," *USATODAY.com*, 12 March 2004, 9:20 AM, 15 March 2004 <http://www.usatoday.com/news/world/2004-03-12-un-iran_x.htm>.
- Syria: Howard LaFranchi, "US Eyes Second-tier Threats in Terror War", *Christian Science Monitor*, 14 October 2003, accessed 15 March 2004; "Bush Advisers Oppose Syria Action", *The Houston Chronicle*, 10 January 2004, accessed 15 March 2004; Amberin Zaman, "Syria Hands Over Terror Suspects to Turkey: The 22 Detainees are said to Have Fled Over the Border After attacks that Killed Scores in Istanbul," *Los Angeles Times*, 1 December 2003, accessed 15 March 2004; Mark Hosenball, Stefan Theil and Rachel Thurneysen-Lukow, "The Syrian Connection," *Newsweek*, 26 January 2004, :US Edition, accessed 15 March 2004; Department of State, "Background Note: North Korea: Profile," 15 March 2004 <http://www.state.gov/r/pa/ei/bgn/3580.htm>; The House of Representatives, *House Resolution 1828 (Public Law 108-175):Syria Accountability and Lebanese Sovereignty Restoration Act of 2003* (Washington D.C.: Government Printing Office, 12 December 2003), 21 March 2004 <http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_bills&docid=f:h1828enr.txt.pdf>.

[3] Syria's lack of WMD program is questionable. For the purposes of this analysis, they are given the benefit of the doubt.

5

Conclusions and Recommendations

CONCLUSIONS

Forcible counterproliferation is the best strategy to close the preemption gap against a converged threat. A clear understanding of interests, threats, and political objectives informs a good military strategy.[1] The NSS properly articulated the nexus of terrorists, WMD, and rogue states as the principal national security threat. Subsequently, the National Military Strategy in response to the global war on terrorism correctly determined a war aim to "deny terrorists access and use of WMD."[2] However, the effort to stretch the classical strategy of preemption to deal with the converged threat drove the Administration to develop the concept of adapted imminent threat."[3] The result is a military strategy inadequate to disrupt the "crossroads of radicalism and technology"[4] in order to stop WMD proliferation to rogue states and terrorists.

To better understand the changing geostrategic environment, we postulated the gray zone, a new method for conceptualizing the threat. In doing so we argued the anachronistic international use of force construct built on a standard of imminent threat must be updated. To simply "adapt the concept of imminent threat" as the Administration proposes is insufficient for contending with today's adversary.

Similarly, existing conventional military strategic concepts are not suited for either the new threat or for using force in the gray zone. Hence, we have posited a new military strategy of forcible counterproliferation to complement both preemption and self-defense. Taken together, a theoretical analysis and hypothetical case study indicated that FCP is the most acceptable strategy, militarily and politically, for disrupting a converged threat. FCP also minimizes strategic risk the best. Likewise, FCP offers unprecedented strategic flexibility. Upon crossing the three trigger points, the President has the discretion to use a wide range of military options or he can attempt to diffuse the situation with the soft elements of power. Once he chooses force, the President can elect either to use a strategic strike with special operations forces to destroy a WMD capability or he can order a major mobilization to effect regime change. The flexible military options run along this continuum.

We maintain the Administration cannot reverse course at this point and remove preemption from center stage of the NSS.[5] Doing so will lead to a huge loss of American credibility. Rather, the Administration's best option is to adopt a strategy specifically crafted for disrupting converged threats as distinct from imminent threats. As stated above, we assert forcible counterproliferation is the best option.

While FCP is conceived to deal specifically with the converged threat, it does not replace the national strategy for the Global War on Terrorism. Instead, FCP is a subset of this conflict. Despite the strategy's heavy reliance on diplomacy and the need to update international use of force norms during implementation, FCP should not be confused as a substitute grand national security strategy. In other words, FCP is an alternative military strategy to preemption designed for a specific threat within the Global War on Terrorism.

Since publication of the 2002 NSS, there has been an upsurge in various supporting national strategies. A review of these documents indicates a lack of vertical and horizontal military strategic alignment. Vertically, the threat is not consistently described and preemption is not a central strategic concept discussed in each. Moreover, the documents lack horizontal continuity, that is to say, they do not incorporate important related elements of each other's strategies. We maintain a coherent, clear, and consistent statement of military strategy is an essential first step to effective deterrence. FCP is just such a coherent statement of military strategy for the converged threat in particular by effectively integrating joint, combined, and law enforcement forces while shaping the strategic context with the soft instruments of power.

Developing and promoting clearly defined trigger points and announcing the status of nations approaching those trigger point thresholds puts a state on notice and reintroduces deterrence against converged threats. Use of deterrence intentionally focuses on stopping rogue states from acquiring WMD, a fundamental departure from the Cold War use of deterrence to stop a WMD attack. Those rogue states that acquire WMD and abrogate their sovereignty must carefully weigh the cost-benefit analysis of continued unacceptable actions against possible international military intervention. Therefore, FCP properly implemented can leverage international consensus and condemnation to effectively signal would-be-threats with the risk of overwhelming force in response to a converged threat.

Closely related to the problem of strategy alignment is the very evident lack of appropriate joint terms for thinking about today's threat and the geostrategic environment. Phrases such as adapted imminent threat, and Global War on Terrorism tend to obfuscate many strategic challenges. Some have suggested, for instance, that DOD should resurrect military operations other than war as a more useful term for describing strikes on the converged threat.[6]

Our research effort has been hindered by the lack of common, relevant, and precisely defined joint terms suitable for developing a military strategy.

Finally, as stated earlier, we acknowledge FCP will not preclude the United States from using its power when needed to defend national interests regardless of whether or not the United States has international legitimacy. However, our national power prerogatives should not stand in the way of advancing new concepts internationally that actually provide strategic clarity, build legitimacy, and are morally defensible. Doing so builds two important bedrocks for US policy. First, by pursuing new international norms the United States stands to gain considerable credibility and the associated cooperative benefits when seeking legitimacy for FCP. These benefits include for example, intelligence sharing, contributions of unique force capability, law enforcement cooperation, and regional access. Second, American efforts to lead the international community in reconsidering legacy use of force statutes and the required strategy needed to defeat converged threats should enhance international support for the Global War on Terrorism. It is with this aim that we propose the following recommendations.

RECOMMENDATIONS

The recommendations below address the three questions posed at the outset of the analysis. The National Security Council must update the NSS to include the following concepts:

Redefine the threat

- Adopt the concept of converged threat in the NSS as the new standard for applying military force in the gray zone.

Update the NSS for the new threat

- Update the NSS with the military strategy of FCP to disrupt converged threats. Retain the optional use of preemptive force to defeat classically defined imminent attacks.
- Adopt the following trigger points to give decision makers the ability to ascertain when it is appropriate and acceptable for the United States to employ FCP.
    - Rogue State designation occurs when states:
        1. Brutalize their own people and squander their national resources for the personal gain of the rulers,
        2. Display no regard for international law, threaten their neighbors, and callously violate international treaties to which they are party,
        3. Are determined to use military force to threaten or offensively achieve their aggressive designs,
        4. Reject basic human values.
    - Terrorists Trigger Point is crossed when nations are declared supporters of terrorism by violating UN Security Council Resolution 1373.
- WMD Acquisition Program Trigger Point is declared when a rogue states and terrorists are determined to have a WMD acquisition program based on additional trigger points developed separately for nuclear, biological, and chemical weapons programs.
- Disentangle the Administration's tendency to conflate and treat as equals threats from WMD, terrorists and rogue states.[7] Develop unique trigger points for each type of WMD.[8]
- Only use FCP to affect regime change and impose democracy as a last resort.[9]

- Do not dilute FCP by stretching the strategy to fit all threats. It should not replace the general framework for the Global War on Terrorism. FCP success and multilateral support are based on close adherence to the primary objective of denying terrorists and rogue states access to and use of WMD, a very specific threat in the larger war on terrorism.

Justification of the new strategy

Critics may stigmatize the strategy as too much like prevention. To build international and domestic receptivity to FCP, the Administration must pursue significant international diplomacy and a rigorous domestic public relations campaign. Elements of these campaigns include:

International justification

- Lead an effort to update the existing international use of force paradigm based upon the outmoded Article 51 of the UN Charter that permits the use of force only following an armed attack.
- Obtain support from the UN for FCP as an acceptable military strategy for disrupting the converged threat. By engaging the UN, the United States is not surrendering the decision to use force to the Security Council. Instead, the US is asking for international help and cooperation to disrupt the converged threat.[10]
- Use diplomacy to obtain international consensus for the notion of abrogated sovereignty based upon: 1) attributes of rogue states, 2) UNSCR 1373, and 3) evidence of a WMD acquisition program. The concept of abrogated sovereignty relieves the responsible nations of the world from the unfair burden of constantly having to prove bad actors are truly irresponsible. Currently, Iran and North Korea may be cooperating with international negotiators to control their WMD programs or they may just be stalling for

time. Holding these states accountable to the abrogated sovereignty principles moves the burden of proof to them and immediately qualifies them for potential military action.

- Comprehensively engage nongovernmental organizations and seek their cooperation to plan, prepare for, and execute stability and support operations following the use of FCP against rogue states. Doing this gives these organizations adequate notice, planning time and United Nations legitimacy to support post-conflict operations.

Domestic justification

Undeniably, the converged threat invokes an unfavorable response from the typical American sentiment against using force. To build the will of the American people, recommend the administration:

- Undertake a rigorous public relations campaign to explain the security realities of the world and the most effective way for America to respond.
- Make clear to the American people the integrating function FCP performs between military and law enforcement agencies.
- Provide strategic clarity and synergy to Defense, State, Homeland Security, FBI, CIA etc., to achieve efficiencies within bureaucracies to disrupt the converged threat.

Capability enhancements

The Department of Defense (DoD) must undertake the following:

- FCP places a tremendous burden on national intelligence agencies to see the enemy first. Specifically, successful use of trigger points requires a reinvigorated intelligence collection, integration, and analysis capability for providing reliable/accurate assessments. In light of the heavily criticized inability of the best three intelligence systems in the world (United States, Britain, Israel) to produce an accurate Iraqi pre-war

assessment, we fully acknowledge this is difficult.[11] The United States should also consider the option to employ intrusive intelligence systems that take advantage of abrogated sovereignty when the possible use of force is high.[12]

- Accelerate two battlespace sustaining efforts:
  - Continue to negotiate access rights for forward basing, thereby reducing the need for an expeditionary force logistics tail,
  - Continue to develop and refine logistics technologies and systems to minimize the self-sustaining logistical burden currently required of expeditionary forces.
- Continue to organize, man, and resource the Standing Joint Task Force (SJTF) concept. SJTF's are ideally suited for conducting operations in support of a forcible counterproliferation strategy.[13] When intelligence indicates elements of a converging threat are approaching a trigger point, a SJTF should be tasked with planning, preparation, and execution of the operation.
- Reassess Transformation-driven force levels and mix across the services in light of FCP requirements such as nation building and security.[14]
- Joint doctrine must develop what we call a find-fix-finish operational concept to disrupt converged threats. Strategic ISR assets must be able to find the threat and assess if a trigger point is crossed. A strategic fixing force consisting primarily of special operations resources must be able to disrupt the converged threat. Finally, a finishing force built upon the Joint Standing Task Force organization must be able to defeat the converged threat. Likewise, critically reexamine the assumptions underlying transformation and realign them with the requirement to disrupt tactics and technologies being employed by terrorists, other non-state actors, and rogue states pursuing WMD.[15]

- The Department of Defense must consider and develop flexible FCP responses grounded in the precept of abrogated sovereignty tied to trigger points. This will require the development of scaleable force modules appropriate for the degree of converged threat. PSI is but one of many possible options. For example, using coordinated military force/law enforcement to stop North Korean use of international shipping to transport WMD components has already proven effective.[16] Second, DOD must develop covert FCP options.[17]

Notes

[1] James A. Mowbray, "A Primer on Strategy Analysis," *Air War College Gateway*, 22 January 2004 <http://www.au.af.mil/au/awc/awcgate/readings/mowbray/mowbmodl.htm>.

[2] Brooks.

[3] NSS 15.

[4] Bush, *West Point Graduation Speech*

[5] Former Secretary of State Madeleine Albright says the US has always reserved the right to use preemptive force and that it was a mistake for the Bush Administration to move the strategy to center stage of US national security. See Madeleine K. Albright, "United Nations," *Foreign Policy* (1 September 2003), Factiva, Harvard Library, 16 December 2003 <https://www.factiva.com>. Also see Madeleine K. Albright, "Bridges, Bombs, or Bluster?" *Foreign Affairs,* Volume 82 Number 5 (September/October 2003) 2-19.

[6] Record, *Bounding the War on Global Terrorism*, 3.

[7] Record and the authors of a Carnegie report on Iraq pre-war intelligence make this point. Record says, "The administration has postulated a multiplicity of enemies, including rogue states; weapons of mass destruction proliferators; terrorist organizations of global, regional, and national scope; and terrorism itself. It also seems to have conflated them into a monolithic threat, and in so doing has subordinated strategic clarity to the moral clarity it strives for in foreign policy and may have set the United States on a course of open-ended and gratuitous conflict with states and non-state entities that post no serious threat to the United States." Record, *Bounding the War on Global Terrorism*, V. The *National Security Strategy to Combat Weapons of Mass Destruction* does a decent job of breaking out the threats as unique, just not to the extent required for strategic analysis. Hence, while we think Record overstates his point to make the case, there is value in looking for ways to "bound" the Global War on Terrorism. Also see Joseph Cirincione, Jessica Mathews, and George Perkovic, *WMD in Iraq: Evidence and Implications,* (Washington DC: *Carnegie Endowment for International Peace,* January 2004), 14 January 2004 <http://www.ceip.org/intel/>.

[8] Roberts 47-62.

[9] On this point we agree with Jeff Records recommendation when he says: "Forcible regime change of the kind undertaken in Iraq is an enterprise fraught with unexpected costs and

unintended consequences…the US has in any event considerable experience in engineering regime change by measures short war." Record, *Bounding the War on Terrorism*, 43.

[10] Frum and Perle, *An End to Evil*, 236.

[11] Carnegie Study 61 and Anthony H. Cordesman, "The Iraq War and Lessons Relating to Intelligence and Weapons of Mass Destruction – Working Draft," Center for Strategic and International Studies, December 2003, 5 March 2004 <http://csis.org/>.

[12] Cordesman 39.

[13] Joint Task Force Horn of Africa (CJTF-HOA) seems to be a good model for this idea. See Department of Defense, United States Central Command Website, 12 April 2004 <http://www.cjtfhoa.centcom.mil/mission.asp>.

[14] Record, *Bounding the War on Global Terrorism*, 44.

[15] We agree with many of the conclusions and recommendations presented by John Gordon IV, David E. Johnson, and Peter A Wilson: 1) While the United States is focusing the objective force on combat operations against conventional opponents, this is a low probability event, 2) the homogeneous objective force is not appropriate for the vast majority of lesser operations the Army will be called upon to execute in the coming decade, 3) the strategic reality of access problems and coalition building undermines the notion that a large portion of the Army must be designed for very rapid response and deployment, and 4) lightly armed future combat systems will need high levels of situational awareness in precisely those scenarios where achieving that goal will be most difficult are just a few examples of their prescient analysis. See John Gordon IV, David E. Johnson, and Peter A Wilson, "An Alternative Future Force: Building a Better Army," *Parameters,* Volume XXXIII Issue 4 (Winter 2003-2004): 19-39.

[16] George W. Bush, "President Announces New Measures to Counter the Threat of WMD," 11 February 2004, Fort Lesley J. McNair, Virginia, *The White House*, 11 February 2004 <http://www.whitehouse.gov/news/releases/2004/02/print/20040211-4.html>.

[17] Daniel Zajac develops two concepts—what he calls unannounced preemption and clandestine preemption. We suspect similar operational concepts are applicable to FCP and are worthy of consideration. Zajac 83-85.

Appendix A

The War in Iraq—Problematic Preemption

CRITIQUES OF THE NSS

Before and after the war in Iraq, politicians, pundits, and intellectuals alike assailed the strategy of preemption as problematic, prodigal, and profuse. Their passionate response to the war clearly indicates all is not well with the preemptive use of force. Examination of the following six major criticisms of the strategy help identify and formulate decision criteria needed to evaluate effective military strategies for using force to meet today's emerging threat.

Prevention, not preemption

First, there are those like Colin Davis who suggest preemption as described in the 2002 NSS is really a doctrine of prevention, despite its preemptive cover story, and therefore hovers close to a willingness to shoot on suspicion.[1] By extension, this group of critics contends the Bush Administration actually employed a war strategy of prevention veiled as preemption against Iraq. For them the war was one of choice, not necessity. It therefore violated two fundamental international law standards for using defensive force: 1) in response to armed attack supported by Article 51 of the United Nations Charter, and 2) the Webster legalist standard of defending against a classically defined imminent attack.[2] Simply, this criticism holds that without an armed provocation or imminent threat (clearly identified WMD and validated

links to Al Qaeda before the decision was made to attack Iraq), the United States was not threatened, the perceived danger was a matter of wrong judgment and the Administration sold the country on war using fear.[3] These opponents of the preventive war with Iraq would say that it is better to wait until threats are so acute and universally apparent that an international consensus can form in favor of forceful action against them.[4]

The war of choice argument gained considerable traction with the war's detractors when Richard Perle asserted in public that the invasion of Iraq was illegal. While his statement seemed primarily focused how international law stood in the way of doing the right thing, labeling the US attack on Iraq was surprising nonetheless.[5]

Insufficient moral and legal justification

Secondly and closely associated with the veiled use of preventive force in Iraq is the claim by some that the war lacked both sufficient moral basis consistent with just war tenets and adequate legal justification to affect regime change and impose democracy.[6] In the case of Iraq, these detractors maintain there were no acts that could be defined as imminent threats to the United States and therefore the use of force was immoral.[7] An outspoken advocate of this position was former Australian Prime Minister Bob Hawke who claimed before the conflict that inspections could resolve the issue, adding that, "war is stupid because if the United States can achieve the objective of disarmament other than by war it's immoral to go to war".[8] The list of associated moral criticisms is too large to cover here but several of the more essential include:

1. Those who use just war theory to say the war was immoral because it lacked international consensus[9]—unless of course the United States means to universalize this type of unilateral moral permission and allow it to every state,[10]

2. If the war was preventive and not preemptive, then the process of moral justification is more stringent. Given the high uncertainty regarding Iraq's intent, which was never credibly established, the decision to go to war was highly speculative,[11]
3. The Administration distorted the Iraqi historical record rendering its case for war immoral, and[12]
4. The Bush Administration has become a law unto itself by not using moral criteria for deciding to use force in Iraq and by extension, preemption is really about sole-superpower arrogance inconsistently applied around the world.[13]

Regarding the legality of the war, several of the major world powers were appalled when the US chose to discount the UN and attacked Iraq without a Security Council resolution. Even if Security Council Resolution 1441 required disarmament, it did not authorize regime change. On this point, Rodrigue Tremblay says, "Changing governments of member countries isn't even one of the prerogatives of the UN; changing the governments of sovereign countries is even less a prerogative of the United States." He continues, "regime change as a goal of military intervention violates the system of international relations, not only since the advent of the UN but also since the Westphalia Peace Treaty."[14] Many opponents believe flexing military muscle without an international mandate prostitutes traditional and honorable American principals and erodes the country's reputation and capacity to lead.[15] Significantly, the 2002 NSS describes the attributes of rogue states without also advancing a corresponding notion of regime change.[16] Critics point to this omission in the strategy and argue the use of force to affect regime change was not proportionate to the threat in Iraq and therefore unjust.[17] They continue; regime change imposes post-regime responsibilities that the United States failed to anticipate in Iraq and conditions there now seem to invite a worse peace that will incubate future threats.[18]

Finally, those who argue the moral/legal depravity of the war say the United States has no moral or legal mandate for imposing democracy around the world. By employing the idiom of evil to describe would-be adversaries, the Bush Administration is creating constructed moral categories not universally shared. This causes some to question the moral responsibility and integrity of the strong and mighty United States and its zeal to spread democracy in places where heretofore it has supported repressive regimes.[19]

Contempt for state sovereignty

Thirdly, critics say reckless contempt for state sovereignty explicitly flows from the NSS by virtue of the Administration articulating attributes of rogue states. Never before has the United States so openly challenged sovereignty. John Ikenberry contends "the strategy is a vision in which sovereignty becomes more absolute for America even as it becomes more conditional for countries which challenge Washington's standards for behavior."[20] Hence the war was initiated in Iraq with little to no forethought given to Iraqi sovereignty. Ikenberry goes on to say that "states that are not technically in violation of any existing international laws could nevertheless be targets of American force as the United States fights terrorists and their state sponsors."[21] The question of who decides when a state has forfeited its sovereignty is at the center of this criticism. In the case of Iraq, Bruce Nussbaum suggests the identification of rogue state attributes were never definitively established.[22] As evidence, he says the Director of Policy Planning at the State Department during the war now states he does not believe promoting democracy warranted intervening in Iraq's sovereignty.[23]

Unintended costs of unilateral action

Fourthly and unmistakably, the decision to go to war provoked international hostility. After Bush declared the United States would act alone against Iraq if required, the unintended

costs of unilateral action without a Security Council resolution became a huge burden for the coalition of the willing.[24] Clearly the impact of this was most acutely felt when many of our major European allies distanced themselves from the war in Iraq. Jeff Record writes,

> In transforming an implicit policy option—striking first—into a declaratory doctrine, the Bush Administration has reinforced an image of America, widely held among friends and adversaries alike, of a unilateralist, overbearing 'hyperpower' insensitive to the concerns of others…The United States seems to be deliberately walking away from over a half-century's effort to embed its security in a web of multilateral institutions that reassure others that American power will be used with restraint.[25]

Similarly, Kofi Annan opines, clearly referring to the United States, that unless the Security Council regains the confidence of state governments and world opinion, individual states will continually resort to unilateral solutions, undermining procedural legitimacy.[26] As evidenced by the hasty return to the United Nations for money, troops, and support to facilitate post-conflict operations in Iraq, critics affirm the US demonstrated it must remain interested in internationalist methods for the gain in influence far exceeds the loss of freedom of action.[27]

Failure to define trigger points for war

The fifth criticism of the use of preemption in Iraq asserts the United States failed to articulate clear WMD capability thresholds or "trigger points" before deciding on the use of force. By failing to do so the Administration never satisfied the conditions to use force commensurate and consistent with their official justification given for the use of preemptive force in the first place. Cynics maintain this was most evident when the President responding to whether Saddam actually had WMD or simply the possibility to acquire them demanded of

Diane Sawyer, "So what's the difference?" Furthermore, before the war the President said that the intelligence on WMD was very sound when in retrospect it obviously was not.[28] On this point, Anthony Cordesman suggests in a report critical of pre-war intelligence not coupled with thresholds, if the proliferation of WMD to terrorists or rogue states is the most serious threat to the United States and we intend to preempt such threats in the future, then there can be no more important role for intelligence to accurately and definitely determine if the WMD capability and intention is present.[29]

Richard Perle, acknowledging the importance of trigger points today by reviewing the timing of the Israeli attack on the Osirak reactor, said "a critical threshold was about to be crossed once it [the reactor] was fueled. So I think we need to look at measurable threats once they evolve, and case by case decide when a point might be crossed that invalidates any reasonable military effort to preempt."[30] According to critics, Paul Wolfowitz never seemed to grasp this point when in a January 2003 speech he referred ten times to the fact that Iraq had "weapons of mass terror" without once providing clear evidence of such.[31]

Poorly conceived threat—the lack of strategic discrimination

The sixth category is our effort to synthesize and distill other major problems with preemption we discovered in a review of the current literature. Generally, the Administration's inability to precisely portray an imminent threat of attack from Iraq greatly limited and restricted the usefulness of the intelligence community, military planners, and international organizations to national security decision makers. On this point, Dr Michael Ignatieff is instructive,

> The Bush doctrine is burdened with contradiction. Having called for a focused intervention strategy, he has proclaimed a war on terror that never clearly defines terrorism; never differentiates among terrorist organizations that explicitly

> threaten American interests…and has never settled on which states supporting or harboring terrorists are targets of American intervention. The administration, purposefully or not, routinely conflates terrorism and the nuclear threat from rogue nations. These are threats of a profoundly different order and magnitude…Where is the definition of when preemption might actually be justified?[32]

Examples abound that manifest this fundamental disjunction between the lack of a clearly communicated preemption strategy and poor operator-level implementation efforts. When the NSS describes preemption as common sense,[33] it overly simplifies the complex nature of the war on terror and assumes both the intelligence community and military planners intuitively "get it".[34] But as Dr Richard Shultz charges, these operators failed to develop the intelligence systems and tactics required to fight terrorists and rogue states.[35] At West Point, President Bush said, "the military must be ready to strike at a moment's notice in any dark corner of the world."[36] The question for intelligence and military officials is where to focus?[37] Critics maintain the failure to concentrate these bureaucracies resulted in the creation of the Office of Special Plans that bypassed existing intelligence agencies, producing a prodigious stream of manipulated and unvetted intelligence for a guaranteed readership in the White House.[38] Because Iraq was a war of choice, they continue, it required excellent intelligence that was lacking both in the decision to go to war and in anticipating post-conflict stability challenges and associated planning.[39]

Similarly, the lack of strategic discrimination poses significant challenges for mid-level national security decision makers. According to Dr Stanley Hoffman, "it is hard to imagine statesman who do not evaluate consequences of their decisions but there is a constant danger of

diluting or ditching principles and slipping into mere opportunism when consequences and context become the dominant considerations."[40] Critics maintain context was paramount in the decision to go to war in Iraq. Clearly, if what Secretary Rumsfeld says is true, "we don't know what we don't know", international rules, traditions of partnership, and standards of legitimacy became secondary to prosecuting the war.[41] Officials embellishing threat intelligence and lawyers failing to anticipate the legal construct needed for detaining Iraqis without a formal declaration of war are but two revealing examples of this dynamic evident from the war.[42]

Security experts argue that other international organizations are equally conflicted with the poorly crafted preemption strategy. For example, after major combat operations were completed, Iraq had to be put back together. Thus far the US has allocated $87 billion to the effort and suffers from a shortage of peacekeeping troops. Critics assert that before the war the United States overlooked the long-term strategy needed for peacekeeping and nation building that integrates the UN, World Bank and other forms of assistance. Demonstrably, the US lost post-conflict momentum by failing to engage international organizations early enough in the pre-war planning process to allow them time to mobilize their resources.[43]

SUMMARY

The long list of criticisms of preemption helps identify problems with this strategy and informs an expanded discussion of imminent threat and preemption. Undisputedly, for many preemption is an unpopular and unacceptable strategy, yet rather than refuting the critics, we appropriate their criticisms to isolate some of the causes for the war's unanticipated effects and to give focus to our analytical questions. For instance, what is the international context for the use of force and are international laws and customs dated? And what about historical

sovereignty and the classical notion of imminent threat—are they still relevant? What are the ramifications for the military and the strategy of preemption?

These and other questions lead us to develop a heuristic tool to assess what we call the "gray zone", a new way to study the threat and the existing use of force construct. Subsequently, we employ several of the criticisms described here to evaluate alternative strategies for fighting "emerging threats before they are full formed" in the gray zone.

Notes

[1] Colin Gray, *Maintaining Effective Deterrence* (Carlisle Barracks, PA:USAWC Strategic Studies Institute, August 2003) 8, 16. Harald Mueller says, "we are not talking about pre-emption (acting to forestall an imminent attack) here. We are talking about prevention, the destruction of a risk before it emerges into a threat that could turn into an attack. On prevention, until very recently, international lawyers were in agreement it was patently unlawful." Harald Mueller, "Debate: How Effective a Tool is Pre-emption in Addressing WMD Proliferation," *NATO Review on the Web* Issue 2 (Summer 2003), 3 March 2004 <http://www.nato.int/docu/review/2003/issue2/english/debate.html>. Francois Heisbourg makes the very cogent point that the Bush Administration is very sloppy in the use of terms, particularly with the interchanging of preemption and prevention. By using both terms interchangeably the Administration can be interpreted in many different ways, which is a major problem. Francois Heisbourg, "A Work in Progress: The Bush Doctrine and Its Consequences," *The Washington Quarterly on the Web* Volume 26.2 (2003), 22 October 2003 <http://80-muse.jhu.edu.exp1.harvard.edu/journals/wq/v026/26.2heisbourg.html>.

[2] Walzer, *Just and Unjust Wars* 74-86. See Chapter 3 for more information on the Webster legalist standard for preemption.

[3] Stan Crock, "Preemptive War is the Wrong Weapon; Team Bush's Rationale for Invading Iraq-to Thwart Terrorists Before They Strike-runs Dangerously Counter to International Law," *Business Week Online* 22 October 2003, Factiva, Harvard Library, 20 December 2003 <http://www.factiva>.

[4] Philip Zelikow cites this criticism and elaborates by stating that threats have a cadence – rhythm and speed. He challenges this flawed point and argues there is an inverse continuum of threat and vulnerability. As a potential enemy's WMD capability becomes more threatening, it becomes less vulnerable to military disruption. We would add, the problem is knowing when that capability exists-more importantly defining that threshold or trigger point so that the United States can plan to do something prior to reaching that point instead of relying on crisis management. Zelikow concludes by saying such programs are most vulnerable when they are immature, but that is when the threats they pose are so ambiguous that it is harder to rally allies against them. See Philip Zelikow, "The Transformation of National Security," *National Interest* Issue 71 (Spring 2003), EBSCO, Harvard Library, 4 September 2003 <http://www.epnet.com>. Also, a Harvard National Security Program paper on preemption does an excellent job laying out this argument in great detail and describes the opportunity window for using force. See Lenny

Notes

Capello, Darryl Fengya, Jeffrey Schloesser, and Michael Smith, "The Preemptive Use of Force: Analysis and Decision Making," *National Security Program Discussion Paper Series 97-03* (Cambridge, MA:Harvard University John F. Kennedy School of Government, 1997)12-21.

[5] Julian Borger and Oliver Burkemand, "War Critics Astonished as US Hawk Admits Invasion was Illegal," *The Guardian on the Web* 19 November 2003, 23 November 2003 <http://www.guardian.co.uk/>. Also see Shaheen Chughtai, "US Hawk admits Iraq war illegal," *Al Jazeera on the Web* 21 November 2003, 24 November 2003 <http://english.aljazeera.net/NR/exeres/6B65F4C9-3C3C-49B6-96CD-B11ADA2315B.htm/>.

[6] Michael Walzer says "to clearly articulate certain acts as definite threats is to characterize them in a moral way and can make a military response morally comprehensible." The argument here is that there were no Iraqi acts that could be defined as definite threats and therefore the use of the military response we immoral. See Walzer, *Just and Unjust Wars* 79.

[7] John J. Mearsheimer and Stephen M. Walt, "An Unnecessary War," *Foreign Policy* 1 January 2003, Factiva, Harvard University, 21 Mar 2004<http://www.factiva,com>.

[8] "Former Aussie PM Calls Iraq War Immoral," *Bernama* (Malaysian National News Agency) 5 March 2003, Proquest, Harvard Library, 17 December 2003 <http://www.il.proquest.com>.

[9] Rodrique Tremblay argues in the absence of an immediate threat, justification for preventive war should require international consensus. Also, he goes onto say the Bush Administration has no moral basis for launching aggressive wars around the globe and to do so makes it no different from the rogue states it is trying to put out of business. Rodrique Tremblay, "Just War Theory," *The Humanist* May/June 2003: 15-18.

[10] Theodore R. Weber, "Power Play," *Christian Century* Volume 120 Issue 5 (8 March 2003), EBSCO, Harvard Library, 16 December 2003 <http://www.epnet.com>.

[11] Weber 14. He explains, "a nation's potential to create terrible weapons may turn into a catastrophic actuality, or it may never find its way into an actively threatening situation."

[12] Mearsheimer and Walt. See also Saul Landau, *The Pre-Emptive Empire: A Guide to Bush's Kingdom* (London:Pluto Press, 2003).

[13] Michael Jansen suggests preemption is really about Bush's leadership. He says Bush intends to decide who is a menace and that he will take action regardless of the consequences. Michael Jansen, "Action Against Iraq Could Destabilize Entire Region," *Amman Jordan Times in English* 20 June 2002, Dialog, Harvard Library, 16 December 2003 <http://www.dialogweb.com>. For similar arguments see Leon Fuerth, "America need not be a law unto itself," *Financial Times of London 1st Edition* 12 May 2003, Proquest, Harvard Library, 19 December 2003 <http://www.il.proquest.com>; Weber 25; Paul Kennedy, Joe S. Nye Jr., and Richard Perle, "The Reluctant Empire: In a Time of Great Consequence," *The Brown Journal of World Affairs* Volume X Issue 1 (Summer/Fall 2003): 11-31. During the debate Kennedy asks, "what about the criterion of consistency? Why Iraq and not Sudan?" Further he says, "there are perceptions within the country, and outside the country that there were other motives, less high principle motives than this one about the restoration of people's fundamental human rights that drove the Administration to war.

[14] Tremblay 15.

[15] Charles W. Kegely Jr.and Gregory W. Raymond, "Preemptive War: A Prelude to Global Peril?" *USA Today Magazine* Volume 131 Issue 2969 (May 2003), EBSCO, Harvard Library, 16

December 2003 <http://www.epnet.com>. They contend, to practice what is not right is to sacrifice respect for a country's most-valuable asset—its reputation for virtue. We don't believe this is as much a moral argument as it is a utilitarian one.

[16] The 2001 QDR does briefly speak to regime change. See QDR, page 13. In 1998 the US Congress authorized regime change in Iraq by supporting opposition political parties and indirect military aid. See "Iraq Liberation Act of 1998," *Public Law 105-338, 22 U.S. Code 2151* (31 October 1998), 4 December 2003 <http://findlaw.com/>.

[17] Todd Gitlin response to war in Michael Walzer, "Drums of War, Calls for Peace: How Should the Left Respond to a U.S. War Against Iraq?" *Dissent* (Winter 2003): 10.

[18] Jeff Record, "The Bush Doctrine and War with Iraq," *Parameters on the Web* Volume XXXIII Number 1 (Spring 2003): 4-21, 24 November 2003 <http://carlisle-www.army.mil/usawc/Parameters/03spring/record.htm>. Jansen says by seeking regime change under preemption the Bush Administration risks a sort of "blowback" or unanticipated negative repercussions of CIA operations undertaken over the pat half century. Jansen believes the Bush Administration attempted to assassinate Saddam using covert means as early as summer of 2002. Jansen, *Action Against Iraq Could Destabilize Entire Region*.

[19] Kegley and Raymond.

[20] G. John Ikenberry, "America's Imperial Ambition," *Foreign Affairs* Volume 81 Issue 5 (Sep/Oct 2002), EBSCO, Harvard Library, 20 December 2003 <http://www.epnet.com>. While John Gaddis was supportive of the war in Iraq, he is nonetheless just as critical of the Administration on this point as well. He argues the Administration has not come clean with the American people concerning how forcefully Bush is animated by the central role of imposing democracy in the middle. Gaddis says the President might lose the fight because he has never made a convincing case for the role of democracy in the region to the American people before, during and after the war. Gaddis, Clearly, one of the first times the President made his case for democracy was not until his speech before the National Democracy Endowment. George W. Bush, "President Bush Discusses Freedom in Iraq and Middle East: Remarks by the President at the 20th Anniversary of the National Endowment for Democracy 6 November 2003," *The White House,* 11 December 2003 <http://www.whitehouse.gov/news/releases/2003/11/print/20031106-2.html>. Also, while on a post-war trip to London President Bush proclaimed it was well nigh time for the west to stop propping up repressive regimes in the middle east in order to set the conditions for democratic forces to flourish. George W. Bush, "President Bush Discusses Iraq Policy at Whitehall Palace in London: Remarks by the President at Whitehall Palace 19 November 2003," *The White House*, 11 December 2003 <http://www.whitehouse.gov/news/releases/2003/11/print/20031119-1.html>.

[21] Ikenberry.

[22] Bruce Nussbaum, "The High Price of Bad Diplomacy Mismanaging the Run Up to War Will Do More Than Squander Goodwill and Damage Alliances," *Business Week* 24 March 2003, Proquest, Harvard Library, 20 December 2003 <http://www.il.proquest.com>.

[23] Bruce Nussbaum, "Iraq: Hard Lessons and How to Use Them," *Business Week* 22 September 2003, Proquest, Harvard Library, 17 December 2003 <http://www.il.proquest.com>. In this article Nussbaum quotes Richard N. Haass, "Pondering Primacy," *Georgetown Journal of International Affairs* Volume IV Number 2 (Summer/Fall 2003): 91-98. Haass in another article argues Iraq was a war of choice and therefore not necessary. Richard N. Haass, "Wars of

Choice," *The Washington Post* 24 November 2003, Washington Speakers Bureau, 5 March 2004 <http://www.washspkrs.com/prod_images/pdfs/RichardHaas.WarsofChoice.11.03.pdf>. Stan Crock in the article cited earlier maintains the White House has no standard for determining when America will respect sovereignty and when it will ignore it given the cautious approach to Iran and Korea. The implication is that the whole notion of preventive action applies only when a country is not only a rogue state but when it is vulnerable as well.

[24] NSS 6.

[25] Record, *The Bush Doctrine and War with Iraq*. Joe Nye also supports this notion and writes, "if you are going to stretch the concept of imminence to include preventive war then it is essential that it be multilateral not unilateral, because when we stretch it unilaterally, we set ourselves up as executioner, judge, and jury and we create a tremendous precedent, an unfortunate precedent which essentially gives away the gains of what we learned in the first half of the 20th century." Paul Kennedy, Joe S. Nye Jr., and Richard Perle, *The Reluctant Empire: In a Time of Great Consequence* 23.

[26] "Binding the Colossus," *Economist* 22 November 2002: 25-26.

[27] Stanley Hoffman, "Clash of Globalizations," *Foreign Affairs* Volume 81 Issue 4 (July/August 2002), EBSCO, Harvard Library, 5 March 2004 <http://www.epnet.com>. Further, in December 2002 Strobe Talbot wrote that some in the United States worried NATO may not recover if dismissed from Iraq. Senator Talbot posits, "just as the UN should be the mechanism of choice—notably, American choice—for dictating terms to Saddam and authorizing force if he fails to comply, NATO is the best mechanism for applying that force. The equation is simple he says—more troops [other than American] assures swift victory and post-conflict security and stability". Strobe Talbot, "From Prague to Baghdad: NATO at Risk," *Foreign Affairs* Volume 81 Issue 6 (November/December 2002), Proquest, Harvard Library, 20 December 2003 <http://www.il.proquest.com>.

[28] Diane Sawyer, "Ultimate Penalty: Excerpts from Interview with President George Bush," *ABC News Primetime* 16 December 2003, ABC News, 5 March 2004 <http://abcnews.go.com/sections/primetime/US/bush_sawyer_excerpts_1_031216.html>. The Washington Post says not only did the National Intelligence Estimate mistake the seriousness of Iraq's nuclear program, but it concluded that Iraq was still producing such deadly chemical agents and had chemical weapons stockpiled. As the piece goes on to say, the degree of the threat matters because some in Congress and the public who supported the war might not have done so had they been given a more accurate account of Iraq's weapons. The result is Bush must live with the probability that future warnings about "gathering threats" will be greeted with considerable skepticism. As of this writing, evidence of neither a nuclear weapons program nor biological/chemical program has been found in Iraq. "What's the Difference?" *Washington Post Oped* 19 December 2003, *DOD Early Bird*, 20 December 2003 <http://ebird/afis.osd.mil>. For another informative interview with the President see Tim Russert, transcript of interview with President George W. Bush updated 13 February 2004, *Meet the Press with Tim Russert* 8 February 2004, MSNBC News, 18 April 2004 <http://www.msnbc.msn.com/id/4179618/>.

[29] Anthony H. Cordesman, "The Iraq War and Lessons Relating to Intelligence and Weapons of Mass Destruction—Working Draft," *Center for Strategic and International Studies* December 2003, 5 March 2004 <http://csis.org/>. A similar report from the Carnegie Endowment for International Peace supports many of Cordesman's observations and

conclusions. Joshep Cirincione, Jessica Mathews, and George Perkovic, "WMD in Iraq: Evidence and Implications," January 2004, *Carnegie Endowment for International Peace*, 18 April 2004 <http://www.ceip.org/intel/>.

[30] Richard Perle in Paul Kennedy, Joe S. Nye Jr., and Richard Perle, *The Reluctant Empire: In a Time of Great Consequence* 27.

[31]Paul Wolfowitz, "Iraq: What Does Disarmament Look Like?" address, Council on Foreign Relations, New York City, 23 January 2003, 6 October 2003 <http://www.dod.gov/speeches/2003>.

[32] Michael Ignatieff goes on to say that the problem really is about what level of threat warrants preemptive use of force. Michael Ignatieff, "Why Are We in Iraq? (And Liberia? And Afghanistan?)," *The New York Times* 7 September 2003, 9 September 2003 <http://www.nytimes.com/2003/09/07/magazine/07INTERVENTION.html/>. Also, Jeffrey Record is especially critical of the Administration's conflation of the threat. See Record, *Bounding the War on Terrorism*.

[33] President Bush says, "And, as a matter of common sense and self-defense, America will act against such emerging threats before they are fully formed." Given the strong negative reaction to preemption it now seems simple to note that for many the idea is not so "common sense". NSS, Introduction.

[34] Joshua Muraychik, "The Bush Manifesto," *Commentary* Volume 114 Issue 5 (December 2002), EBSCO, Harvard Library, 2 November 2003 <http://www.epnet.com>.

[35] Richard H Shultz and Andreas Vogt, "Its War! Fighting Post-11 September Global Terrorism through a Doctrine of Preemption," *Terrorism and Political Violence, a Frank Cass Journal* Volume 15 Issue 1 (Spring 2003): 1-30. Shultz gathers much of his background on 4th generation warfare from Chuck Spinney. Spinney's website is *Defense and the National Interest,* 5 March 2004 http://www.d-n-i.net/. Others expand on this argument and point out glaring problems with the assumptions foundational to building the Future Force. Clearly at this point there is a disjunction between future threats and combat developments. Peter A. Wilson, John Gordon IV and David E. Johnson, "An Alternative Future Force: Building a Better Army," *Parameters* Volume XXXIII Issue 4 (Winter 2003-2004): 19-39.

[36] Bush, *West Point Speech*.

[37] Ikenberry.

[38] Imad Khadouri, "Circles of Lies Coming to a Close," *Al Jazeera.net,* 10 August 2003, 3 November 2003 <http://english.aljazeera.net/>. Julian Borger claims Cheney made numerous trips to Langley to demand a more "forward-leaning" interpretation of the threat posed by Saddam and routinely put pressure on the CIA to come up with appropriate results. Julian Borger, "The Spies Who Pushed for the War," *Guardian Unlimited on the Web* 16 July 2003, 20 November 2003 <http://www.guardian.co.uk>. Also see Cordesman, *The Iraq War and Lessons Relating to Intelligence and Weapons of Mass Destruction – Working Draft*.

[39] Bruce Nussbaum rightly says the burden of proof will be heavier for future conflicts and asks the probing question; can the intelligence community and the military meet the challenge? Bruce Nussbaum, *Iraq: Hard Lessons and How to Use Them*.

[40] Hoffman.

[41] Ikenberry.

Notes

[42] Sonni Enfron, "Threats Overstated by Bush Official, Critics Contend," *Los Angeles Times* 3 November 2003, DOD Early Bird, 3 November 2003 <http://ebird.afis.osd.mil/cgi-bin/ebird/displaydata.pl?Requested=/ebfiles/e20031103229981.htm/>. Kenneth Pollack probably is in the best position to offer a rigorous assessment of pre and post-war threat assessments. Before the war he wrote a highly influential book that arguably directly contributed to the Administration's decision to go to war. Kenneth M. Pollack, *The Threatening Storm: The Case of Invading Iraq* (Random House, New York, 2002). In a recent Atlantic Monthly article Pollack evaluates what went wrong with pre-war assessments. Kenneth M. Pollack, "Spies, Lies, and Weapons: What Went Wrong," T*he Atlantic Monthly* January/February 2004: 78-92. The debate rages regarding the legal status of those detained by the US in the war on terrorism – both US citizens and those detained in Afghanistan and Iraq. To get a sense for the debate see Neil A. Lewis, "The Sudden Shift on Detainee," *The New York Times* 4 December 2003, *Early Bird*, 18 December 2004 <http://ebird.afis.osd.mil/>; William Taft, "Guantanamo Detention is Legal and Essential," *London Financial Times* 12 January 2004, *DOD Early Bird*, 12 January 2004 <http://ebird.afis.osd.mil/>. Kenneth Roth rightly points out the it is not clear if the Geneva Convention war rules can even be applied to the war on terrorism. The Geneva Convention applies to armed conflict, a term not adequately defined by the Convention. Hence, it is difficult to judge if the Convention applies to the GWOT. For an excellent examination of the fundamental differences between law enforcement rules and law rules as they pertain to detaining people see Kenneth Roth, "The Law of War in the War on Terror: Washington's Abuse of Enemy Combatants," *Foreign Affairs* Volume 83 Number 1 (January/February 2004): 2-7.

[43] Ikenberry.

Appendix B

Quantitative Analysis of Strategy Options

STRATEGY ANALYSIS

Table 3 below shows the strategic decision matrix used to compare the four strategies. We rank ordered the options from one to four (best to worst) on ability to meet each criterion, except we considered "Stop WMD Attack" a pass/fail criterion and ranked it Yes/No/Maybe. The relative value row is a sum of all criteria scores and indicates a relative rank order of the strategies. Since the numbers are subjective the difference between the relative values do not relate to magnitude of effectiveness. The FEASIBLE row is our subjective analyses for how well the options conform to the strategic review criteria of acceptability, adequacy, and feasibility.

	Self Defense (SD)	Preemption (PE)	Prevention (PV)	Forcible Counter-proliferation (FCP)
CRITERIA				
Stop WMD attacks	No	Maybe	Yes	Yes
Maximize force flexibility	4	2	3	1
Employ trigger points	3	2	4	1
Minimize unintended consequences	1	2	4	3
Sustain popular will	4	2	3	1
Respect sovereignty	3	2	4	1
Maximize multilateral support	1	3	4	2
Deny legal seams	4	2	3	1
RELATIVE VALUE	20	15	25	10
FEASIBLE	No	No	No	Yes

Table 3: Strategies Assessed by Criterion

To ensure the criteria sufficiently encompassed the threat spectrum, we defined the variability in the threat components shown below in Table 4. We considered this variability when evaluating the military strategy options.

Threat Element	Variability Definition
Actor	How well does the strategy meet the criteria of interest when considering all actors of concern?
Intent	How well does the strategy meet the criteria assuming errors in knowledge of enemy intent?
Capability	How well does the strategy meet the criteria when allowing for a wide range of capabilities and potential errors in capability assessments?
Reaction Time	How well does the strategy meet the criteria when considering both early and late detection of an emerging threat?

Table 4: Threat Element Definitions

Appendix C

Comparison of Threat Elements

Table 5 provides a narrow comparison between the threat elements envisioned by the UN Charter and those applicable to the threat in the gray zone.

	UN Charter	Gray Zone
Actor	Sovereign states Consensual, non-intervention	Sovereign states Non-state Failing states Rogue states
Intent	Take territory, aggrandize Pursue national objectives Control by collective security	Non-combatant death/destruction
Capability	Full range—mostly conventional	WMD only
Reaction Time	Primary factor Self-defense—attack in progress Preemption (controversial)—imminent attack	Lots to none—ability to predict limited

Table 5: Comparison of Threats Context for UN Charter and Gray Zone

Appendix D

Abrogated Sovereignty Defined

The discussion of state sovereignty in the 2002 NSS leaves many questions critical to our argument unanswered. First, we will provide an overview of conventional state sovereignty. "In the contemporary world, sovereignty primarily has been linked with the idea that states are autonomous and independent from each other."[1] Yet everyday the world becomes more interconnected and interdependent and the concept of sovereignty must evolve to accommodate these changes.

In response to the turbulent decade of the nineties and the intervention precedents established then, the UN in 2001 set new principals for humanitarian military interventions with its "Responsibility to Protect" doctrine. The doctrine is outlined in the Report of the International Commission on Intervention and State Sovereignty (ICISS). This doctrine advances the essential idea that sovereign states have a responsibility to protect the people of their state from "avoidable catastrophe". However, if a state is unwilling or unable to protect its people then the international community is obligated to consider assuming the responsibility.[2] The report was clearly written to address humanitarian issues and the members of the commission specifically say responding to terrorism is a separate issue.[3] Anne Marie Slaughter advances a similar notion of state responsibility. She proposes that there be a corollary principle,

"A Duty to Prevent," to keep rulers without internal checks on their power from acquiring or using WMD.[4]

The existence of the responsibility to protect doctrine clearly suggests the concept of sovereignty is changing. It is no longer just about the rights of the sovereign, but also about the expanded responsibilities of the sovereign. Once the concept evolves to conventionally include both a state's rights and responsibilities the question becomes, what happens when a state fails to fulfill its expanded responsibilities? We foresee two distinct situations. The first case is a state that is willing but unable to fulfill its responsibilities. In this scenario, the state may request assistance from other states or the international community. The second case occurs when a state is unwilling to fulfill its responsibilities. In such an eventuality, as the responsibility to protect doctrine suggests, the responsibility to help moves to the international community.

The question for the international community is how does such an expanded notion of sovereignty allow use of force against rogue states that permit terrorists safe haven while acquiring and potentially proliferating WMDs? For the US to justly applying FCP, the answer to this question is especially relevant. We envision three potential situations. First, the capable and responsible state within whose boundaries the proliferation and terrorist activity takes place may stop it themselves. Second, the incapable and responsible state may ask for, or authorize assistance from, other states. It is only in the third case, when an unwilling state fails to take action or allows others to stop the threat that sovereignty becomes a concern. A state that harbors terrorists while acquiring WMD, fails to fulfill its responsibilities to the greater international community and forfeits its UN protections. We contend such a state has abrogated its sovereignty. When the international community fails to diplomatically compel the irresponsible state to fulfill its responsibility, we advocate the right of the international

community or individual responsible sovereign states to take strong action including military action to defeat the threat.

While the ICISS did not attempt to address the converged threat, the commission said:

> We have no difficulty in principle with focused military action being taken against international terrorists and those who harbour them. But military power should always be exercised in a principled way, and the principles of right intention, last resort, proportional means and reasonable prospects outlined in our report are, on the face of it all, all applicable to such action.[5]

The international community needs to work out the details of what "*in a principled way*" means. However, at a minimum, the international community should clearly communicate when a state has abrogated its sovereignty by its failure to fulfill the responsibilities of sovereignty. When a converged threat becomes evident within a state, the international community must put the violating state on notice with clear implications that military action will follow if the threat is not reversed or stopped immediately.[6]

Notes

[1] Krasner, Stephen D., "Sovereignty," *Foreign Policy* Issue 122 (January/February 2001), EBSCO, Harvard Library, 18 April 2004 <http://www.epnet.com>.

[2] Her Majesty the Queen in the Right of Canada, International Development Research Centre, *The Responsibility to Protect*: *Report of the International Commission on Intervention and State Sovereignty* (Ottawa, ON, Canada:International Development Research Centre, December 2001) VIII.

[3] *The Responsibility to Protect* VIII.

[4] Feinstein and Slaughter.

[5] *The Responsibility to Protect* IX.

[6] Bryan J. Hehir, "Expanding Military Intervention: Promise of Peril?" *Social Research* Volume 62 Issue 1 (Spring 1995): 41-51. Father Hehir wrestles with the political-moral principal of nonintervention, primarily for humanitarian reasons. He says that historically leaders have understood the communal responsibility to use war as an instrument of justice.

Glossary

DoD	Department of Defense
FCP	Forcible Counterproliferation
MOOTW	Military Operations Other Than War
NGO	Non-governmental Organization
NSC	National Security Council
NSCT	National Strategy to Combat Terrorism
NSS	National Security Strategy
PE	Preemption
PSI	Proliferation Security Initiative
PV	Prevention
SD	Self-defense
SJTF	Standing Joint Task Force
SOF/SMU	Special Operations Forces/Special Mission Units
USA	United States Army
USAF	United States Air Force
USN	United States Navy
UNSC	United Nations Security Council
UNSCR	United Nations Security Council Resolution
WMD	Weapons of Mass Destruction

Acceptability: Operation plan review criterion. The determination as to whether there is consistent with the law of war; and is militarily and politically supportable.

Adequacy: Operation plan review criterion. The determination as to whether the scope and concept of a planned operation are sufficient to accomplish the task assigned.

Accidental risk: The probability of miscalculation in striking the appropriate target at the right time, a by-product of acting first (earlier in the intelligence cycle).

Convergent Threat: The threshold where there is substantial evidence of collusion between terrorists and rogue states in pursuit of weapons of mass destruction.

Feasibility: Operation plan review criterion. The determination as to whether the assigned tasks could be accomplished by using available resources.

Forcible counterproliferation (FCP)—Use of force in response to a convergent threat where there is substantial evidence of collusion between terrorists and rogue states in pursuit of weapons of mass destruction. While there is not incontrovertible evidence of an imminent attack, to delay taking action would be irresponsible.

Gray Zone: An area on the continuum of threats bordered by the thresholds of convergent threat and imminent threat where there is a convergence of rogue states and terrorist organizations pursuing weapons of mass destruction.

Imminent threat: A threat where reaction time must be near instantaneous.

Preemptive use of force (classical preemption): Use of force initiated on the basis of incontrovertible evidence that an enemy attack is imminent.

Preventive use of force (classical prevention): Use of force initiated in the belief that military conflict, while not imminent, is inevitable, and that to delay would involve greater risk.

Self-Defense: Use of force in response to a hostile act or armed attack.

Strategic risk: The probability our security is threatened because of a lost opportunity to act.

Threat: An expression of an enemy's intention to inflict evil, injury, or damage with sufficient capability to make those intentions realistic, and a realistic estimate of reaction time prior to the attack (four elements of a threat: actor + intent + capability + reaction time). The threat level climbs with increasing hostility from an enemy, an expanding enemy capability, and an approaching attack.

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Biographies

Commander Joanne Marie Fish, USN
Commander Fish is a Naval Fleet Support Officer who most recently commanded Naval Support Activity Gaeta, Italy. Qualified as a Surface Warfare Officer, other assignments include Naval Station, San Diego, Shore Intermediate Maintenance Activity Little Creek, Naval Submarine Base New London, and USS Yellowstone (AD-41). She also served as an instructor at Surface Warfare Officer School in Newport, RI and as a Strategic Planner on the staff of U.S. Atlantic Command. CDR Fish is a graduate of the Naval War College, the Armed Forces Staff College, and the Defense Language Institute (Italian). She holds a Bachelor of Science in political science from the United States Naval Academy and a master's degree in national security affairs (strategic planning) from the Naval Postgraduate School in Monterey, CA. CDR Fish is currently slated for assignment as the Base Support Officer, Norfolk Naval Shipyard, Portsmouth, VA.

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Colonel Christopher J. Reddish, USA
Colonel Reddish is an infantry officer who most recently trained infantry battalions for combat at the Joint Readiness Training Center. Prior to his assignment at Ft Polk he commanded an infantry battalion in the 101st Airborne Division (Air Assault). He has served in a variety of infantry assignments in the United States, Germany, Bosnia, and Kosovo. COL Reddish is also a Southeast Asian FAO, and he has served in the US Embassy Singapore. He is a graduate of the Army Command and General Staff College and he holds a bachelor's degree in political science from Wheaton College and a master's in public administration/Asian studies from Cornell University. COL Reddish is currently slated for assignment to Headquarters, US Army Forces Command, Ft McPherson, GA.