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The vision of the *Baker Center Journal of Applied Public Policy* is to provide public officials, policymakers, political activists, scholars, and citizens with forward-looking commentary and research on matters of public policy. The journal will focus on pragmatic, rather than theoretical, analysis of issues that are regional, national, and international in scope.

The *Baker Center Journal of Applied Public Policy* will publish articles, essays, and book reviews semiannually with direction provided by a national advisory board made up of distinguished scholars and public-policy leaders. The journal's editorial board comprises preeminent faculty members, practitioners, and graduate students in law and political science, as well as from selected undergraduate members of the university's Baker Scholars honor society.

Submission Requirements

The *Baker Center Journal of Applied Public Policy* seeks manuscripts that explore topics across the policy spectrum. We generally seek manuscripts that are between 10 and 30 double-spaced typewritten pages, including endnotes.

The *Baker Center Journal of Applied Public Policy* accepts articles electronically or in hard-copy format with a diskette or CD-ROM included. Manuscripts may be mailed to the Baker Center or they may be e-mailed to the editorial staff at *bakercenter@utk.edu* with "journal article" in the subject line. All submitted manuscripts should be double spaced in a 12-point font with 1-inch margins and saved in MS Word or a text format. The journal will publish articles that contain endnotes in accordance with either APA style or with the 18th edition of *The Bluebook*. However, all articles that focus primarily on legal issues should contain endnotes in accordance with *The Bluebook*.

Thank you for your interest, and please direct any questions to Dr. Michael R. Fitzgerald, faculty editor, at *mfitzge1@utk.edu*, or Dr. Nissa Dahlin-Brown, assistant director, Howard Baker Center for Public Policy.

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Introduction to the BAKER CENTER JOURNAL OF APPLIED PUBLIC POLICY

Welcome to the first issue of the *Baker Center Journal of Applied Public Policy*. Throughout my many years of service, I always have been impressed with the tremendous good that can be accomplished through the creation and implementation of sound public policy. I hope that, along the way, I have contributed to the body of policies that help our nation function in a strong, effective, compassionate, and prosperous fashion. As we launch this new Journal, under the auspices of the *Howard H. Baker Jr. Center for Public Policy* at the University of Tennessee, I wanted to briefly expand on some of the reasons I believe that this journal is necessary and why I believe that research on public policy is so vitally important.

This Journal aims to discuss applied public policy. The goal is not to engage in theoretical discussions, though I believe those are important. Instead, we hope that the Baker Journal will focus on the most current issues that directly affect our nation and our world on the operational, or mechanical level. We intend to engage a wide variety of contributors. Scholars, of course, will be asked to write on critical topics of research. We also aim to include contributions from those who draft, approve and execute public policy at the local, state, and national levels. Additionally, at least one article in each issue will be reserved for the work of a university-level student. Our approach is varied, and I know that the result will be an intellectually sound and extraordinarily interesting presentation of experiences and ideas.

I am especially pleased that so many University of Tennessee students are involved in the formulation and operation of the Journal. Our editorial board is comprised of some of the University of Tennessee's most promising undergraduate, graduate, and law school students. With dedicated assistance and oversight from faculty and from the Baker Center, this board of extraordinarily intelligent and committed students has worked very hard to make this Journal a reality. The Center has also formed a national advisory panel for the Journal. I am a member of that panel, and I must note that I am grateful for the involvement and support of my colleagues who have agreed to serve with me: Ms. Emily Reynolds, former Secretary of the United States Senate; Congressman Bob Clement, former Tennessee Congressman; Mr. Glenn Reynolds, noted author and professor of law at the University of Tennessee; Dr. Joseph Cooper, an accomplished professor of political science at Johns Hopkins University; and Mr. John Seigenthaler, distinguished journalist and founder and director of the First Amendment Center at Vanderbilt University.

I believe it is critical that we think deeply about the issues that are confronting us today. Our representative system of governance is based on an informed citizenry and informed public servants. From international issues such as the war on terror and energy challenges to more local but equally important topics such as sustainable development and education, we must commit ourselves to understanding all challenges free of partisan rhetoric. Only then can we confront them together.

It is my hope that this Journal will add to that understanding and will speak to many audiences. From the classroom to the boardroom, from city hall to the halls of our legislatures, I believe the work put forward in our journal will be useful for everyone who wants to be informed and engaged. It is an exciting undertaking, and I thank you for your support.

Howard H. Baker Jr. Center for Public Policy

Nuclear Weapons: *A Perspective In 2007*

Ambassador Thomas Graham, Jr.

Introduction

In the end, it is the rule of law that distinguishes civilization from barbarism. It has taken thousands of years for humankind to develop into a community of civilized states, many governed by law. In ancient times, governments were formed to provide security and an opportunity for economic development. Gradually, the concept of the supremacy of law over the government and society began to prevail.

Approximately 400 years ago, societies began to promote international order and stability by applying the rule of law to interstate relations. Since the Age of Enlightenment in the eighteenth century, the world community, more or less, has accepted the idea that governments must be subject to the rule of international law in order to be considered legitimate. Today, legal agreements between states affect much of the life of the world community. These agreements, embodied in commercial treaties, human rights accords, and agreements on the environment, have operated successfully for decades. However, bringing the rule of law to the field of international security and arms limitation has proven to be far more difficult.

Arms control is not new. At the Second Lateran Council, which was convened in 1139 A.D., Pope Innocent II outlawed the crossbow, declaring it to be "hateful to God and unfit for Christians." The crossbow was later overtaken in effectiveness by the English longbow. The crossbow and the longbow were then eclipsed by the destructive firepower of the cannon. The Church also banned the rifle when it appeared, but military technology continued to develop over the centuries, and diplomacy and arms control efforts could not keep pace. The relationship between weapons technology and arms control changed forever with the advent of the atomic bomb in 1945. Then, for the first time, humanity possessed a weapon with which it could destroy itself.

The Atomic Age

At the start of a beautiful summer day on August 6, 1945, the atomic bomb nicknamed "Little Boy" exploded over Hiroshima. The bomb was detonated at 1,900 feet above the center of the city, 43 seconds after it left the B-29 bomber that had carried it from the American base on the island of Tinian some 1,000 miles away (Rhodes, p. 711). A crew member later recalled, "[w]here we had seen a clear city two minutes before, we could no longer see the city. . . . We could see smoke and fire creeping up the sides of the mountains" (p. 710). In the words of another crew member, Hiroshima looked like "a pot of boiling black oil" (p. 711). Still another said, "[t]he mushroom itself was a spectacular sight, a bubbling mass of purple-gray smoke, and you could see [that] it had a red core in it and everything was burning inside" (p.711).

Richard Rhodes, who collected these recollections in his Pulitzer Prize winning book, *The Making of the Atomic Bomb*,[2] noted that the temperature of the explosion site reached 5,400 degrees; people within half a mile who had been exposed were burned to bundles of black char in a fraction of a second (p.714-715). A study conducted years later found that not only human beings died at Hiroshima.

> In the case of an atomic bombing . . . a community does not merely receive an impact: the community itself is destroyed. Within two kilometers of the atomic bomb's hypocenter, all life and property were shattered, burned, and buried under ashes. The visible forms of the city where people once carried on their daily lives vanished without a trace (p. 732-733).

In August 1945, Hiroshima's resident population numbered some 280,000 to 290,000 civilians and about 43,000 soldiers (p. 713). The bomb immediately killed an estimated 140,000 people. By 1950, as radiation-related illnesses took their toll, the total number of dead rose to 200,000, or more than 60 percent of the city's population (p. 733-734). All of this devastation and death were caused by a 10-foot-long, four-ton device that unleashed an explosion equivalent to 12,500 tons of TNT (p. 701, 711).

The atomic bomb dropped over Hiroshima was based on a design so simple that it did not need to be tested at full yield. A so-called "gun" bomb, it fired one piece of nuclear material up the barrel of a small cannon where it mated with a second piece of nuclear material fixed to the cannon's muzzle. This process formed a supercritical assembly and started an explosive nuclear chain reaction (p. 462-463). Due to the simplicity of this design, the "gun" bomb lies within the reach of the governments and international terrorist organizations that can acquire the already-abundant nuclear explosive material that is needed to build it.

The Hiroshima "gun" bomb was only the second nuclear explosion that humanity conducted. The first nuclear explosion, in the New Mexico desert in April of 1945, and the third, at Nagasaki, were based on a more complicated "implosion" design. The "implosion" design consisted of a core of nuclear material surrounded by a sphere of conventional explosives designed to implode inward simultaneously, thereby creating a nuclear explosion. The implosion design permitted the addition of considerable sophistication and potency to early nuclear weapons (p. 466-476).

The Cold War and the NPT

Not long after the nuclear explosion at Hiroshima, a vast nuclear arms race was underway. As the Cold War began, escalated, and intensified, atomic bomb yields grew from the Hiroshima bomb's 12.5 kilotons to hundreds of kilotons. With the advent of thermonuclear weapons, which are weapons based on hydrogen atoms rather than uranium atoms, the explosive yields reached into the megatons—1 megaton being equivalent to 1 million tons of TNT. To illustrate, one million tons of TNT is roughly equal to a freight train loaded with TNT that extends from New York to Los Angeles. During the 1960s, the United States deployed bombers with several weapons of 25-megaton yields; the Soviet Union deployed a missile warhead with a comparable explosive potential. At the Cold War's peak, the United States fielded some 32,000 nuclear weapons, while the Soviet Union later deployed some 45,000. Thousands of these nuclear warheads were maintained on hair-trigger alert. If launched, these warheads would have been carried by long-range ballistic missiles able to strike the target country in thirty minutes. Once in the air, these weapons could not be diverted from their targets and could not be destroyed if they were launched by mistake.

By the 1960s it appeared as if nuclear weapons would spread all over the world. But arms limitation efforts gradually gained momentum. Over time, a web of international treaties and agreements were constructed with the Nuclear Non-Proliferation Treaty (NPT) at the center of the web. These treaties inhibited the spread of nuclear, chemical, and biological weapons and limited their development. These treaties unquestionably changed the course of history. Now, sixty years into the atomic era, much has changed in the global security environment. The peril of nuclear holocaust remains, however, and has been joined by a new variation: nuclear terrorism. To avoid the kind of nightmare visited on Hiroshima—or an even worse disaster—new responses must be fashioned to counter the emerging threats on the nuclear weapons landscape.

Paul Nitze, the archetypical Cold Warrior and nuclear weapon strategist, authored National Security Council report 68 (NSC-68). As the author of NSC-68, which was commissioned by President Truman in 1950, he helped set the ground rules for the Cold War and for thermonuclear confrontation. In this Report, he wrote: "[i]n the absence of effective arms control it would appear that we had no alternative but to increase

our atomic armaments as rapidly as other considerations make appropriate" (p. 71). In addition to being an outstanding national leader, Paul Nitze was also someone who could recognize change and respond to it. His final op-ed, entitled "A Threat Mostly To Ourselves," was written in 1999 when he was ninety-two years old. In it, he said

> I know that the simplest and most direct answer to the problem of nuclear weapons has always been their complete elimination. My 'walk in the woods' in 1982 with the Soviet arms negotiator Yuli Kvitsinsky at least addressed this possibility on a bi-lateral basis. Destruction of the arms did not prove feasible then, but there is no good reason why it should not be carried out now (Nitze, 1999).

Senator Sam Nunn (2004), in an article published in the *Financial Times* in December 2004, discussed the continuing danger of nuclear weapons fifteen years after the end of the Cold War. He argued that this danger is a result of the fact that the United States and Russia still maintain, on fifteen minutes alert, long range strategic missiles equipped with immensely powerful nuclear warheads that are capable of devastating each other's societies in thirty minutes. Senator Nunn also noted that the current United States nuclear weapon policies rely on the proper functioning of the Russian early warning system, which is rapidly deteriorating. Our adherence to these policies which expect Russian technology to still function as properly today as it did during the Cold War, he warned, "risks an Armageddon of our own making" (Nunn, 2004).[4]

An incident illustrating this danger occurred on January 25, 1995, when the Russian early warning network registered a rocket launch from Norway (Graham, 2005). The Norwegian rocket was a scientific experiment, an atmospheric sounding rocket being used to conduct scientific observations of the aurora borealis. Norway had notified Russia of the proposed launch several weeks earlier, but the message had not reached the relevant sections of the military. As a result, the Russian military were unable to determine the nature of the rocket or its destination. Considering that both the United States and Russia maintained their strategic nuclear forces on alert, there were concerns within the Russian military that the rocket might be a submarine launched nuclear missile aimed at Moscow for the purpose of decapitating the Russian command and control structure. As a result, the Russian military alerted President Boris Yeltsin, the Minister of Defense, and the Chief of the General Staff. These officials then immediately convened a teleconference to determine whether it was necessary to order Russia's strategic nuclear forces to launch a counterattack. A little more than two minutes before the deadline to order nuclear retaliation, the Russians realized their mistake and stood down their strategic forces (Graham, 2005). Fortunately, Yeltsin and the Russian leadership made the correct decision. If they had not, then this truly would have been an "armageddon of our own making."

Today's Nuclear Threats: Problems and Responses

If anything, the nuclear threat is perhaps more precarious and volatile today than it was during the Cold War. As Senator Nunn pointed out, thousands of strategic nuclear weapons still remain on alert in the United States and Russia. The Russian early warning system has significantly declined in effectiveness and today consists of several ground-based radar systems which are nearing the end of their operational life and only three functional warning satellites. By contrast, the United States presently deploys 15 such satellites. Even with these older warning systems, the United States and Russia still maintain nuclear deterrent strategies and forces as they did during the Cold War. If early warning satellites or ground based radar systems detect a missile in flight, (something that is a frequent occurrence) early warning crews have only two or three minutes

to make an assessment (Nunn, 2004).

Bruce Blair (2005), in his article "Primed and Ready," illustrated this short response time by describing the United States' protocols for a response to a nuclear threat. In the event of an apparent nuclear threat, an emergency teleconference would be convened between the President and his top nuclear advisers. During the conference, a Strategic Command officer would have less than a minute to brief the President. After the briefing, the President would have up to twelve minutes to decide whether to launch a strategic nuclear strike on Russia. Russia's response operates on even tighter deadlines, due to the short flight time of missiles launched from the United States submarine fleet patrolling in the north Atlantic. These deadlines were in place when President Yeltsin decided to not retaliate in response to the Norwegian rocket in 1995. It is a significant understatement to say that continuing this precarious situation in today's world is highly dangerous and unnecessary.

In January of 2007, George Schultz, William Perry, Henry Kissinger and Sam Nunn (2007) published "A World Free of Nuclear Weapons," an op-ed article in the *Wall Street Journal*. This article stated that reliance on nuclear weapons for deterrence "is becoming increasingly hazardous and decreasingly effective." They further warned that "apart from the terrorist threat, unless urgent new actions are taken, the U.S. soon will be compelled to enter a new nuclear era that will be more precarious, psychologically disorienting, and economically even more costly than was Cold War deterrence." Signing onto this article was Ambassador Max Kampelman, President Ronald Reagan's arms control negotiator, and a number of former senior officials from the Reagan, George H.W. Bush, and Clinton administrations.

The authors pointed to a number of world leaders, past and present, who had called for changes in nuclear policy. They recalled President John F. Kennedy's statement that "[t]he world was not meant to be a prison in which man awaits his execution." They also pointed to Prime Minister Rajiv Gandhi's address to the United Nations General Assembly in 1988. In the Prime Minister's speech, he warned that "[n]uclear war . . . will mean the extermination of four thousand million [people]: the end of life as we know it on our planet earth." Additionally, the authors noted that President Ronald Reagan had called for the abolishment of "all nuclear weapons," which he considered "totally irrational, totally inhumane, good for nothing but killing, possibly destructive of life on earth and civilization." The authors also point out that, although Ronald Reagan and Mikhail Gorbachev had tried and failed to eliminate the problem of nuclear weapons at the Reykjavik, Iceland Summit Meeting in 1986, they were successful in "turning the arms race on its head." The authors call for the "[r]eassertion of the vision of a world free of nuclear weapons and practical measures toward achieving that goal" (Schultz et al., 2007).

In order to revive this vision, the authors identify a number of "urgent steps" that we must take. The authors also stressed that the Nuclear Non-Proliferation Treaty (NPT) is the centerpiece of international security because it "envisioned the end of all nuclear weapons." Among the "urgent steps" that the authors advocate is a changing of the alert status of deployed nuclear weapons to increase warning time, the continued worldwide reduction of nuclear forces, and the ratification of the Comprehensive Nuclear Test Ban Treaty (CTBT) by the United States and other key nations (Schultz et al, 2007). This article, along with its recommendations, is extremely significant because it illustrates that the national security establishment, far beyond its four distinguished authors, is coming to the realization that the world has become so dangerous that nuclear weapons are a threat even to their possessors. President Gorbachev published a similar article and the four authors each wrote him a letter of thanks.

The article's discussion of the NPT, the principal security agreement of the present era, is important in understanding possible strategies for the elimination of nuclear weapons. The NPT prohibits the further

spread of nuclear weapons and calls for the eventual elimination of existing nuclear weapons stockpiles ("The Treaty on the Non-Proliferation of Nuclear Weapons," 2005). President John F. Kennedy, who feared that nuclear weapons might proliferate all over the world, envisioned the need for such a treaty. Reports in 1962 indicated that, by the late 1970s, there would be twenty-five to thirty nuclear weapon states, each with nuclear weapons integrated into their arsenals. If this projection had materialized, there would be many more nuclear states today, and every conflict today would carry with it the risk of going nuclear. In addition, it would be impossible to keep nuclear weapons out of the hands of international terrorist organizations, which would have an even more widespread network than we see today. In September of 2004, the Director General of the International Atomic Energy Agency (IAEA), Mohamed El Baradei, estimated that while more than forty countries now have the capability to build nuclear weapons, most of these states have not done so, largely because of the NPT and other treaties ("Statement of the Director General," 2004).

Indeed, the primary reason that such nuclear weapons proliferation did not occur was because of the negotiation and implementation of the NPT in 1970. The NPT, along with the associated extended deterrence policies ("the nuclear umbrella") pursued by the United States and the Soviet Union during the Cold War, converted what had been an act of national pride into an action of international outlawry. To see the difference, one only has to compare the first French nuclear test in 1960 with the first Indian test in 1974. The French test was greeted with a great outpouring of national enthusiasm. Cries of "Vive La France" and "Vive de Gaulle" were everywhere. France was thus accepted by the international community as a member of the nuclear club ("France's Nuclear Weapons Program," n.d.). In contrast, the Indian test in 1974 was carried out, figuratively, in the dead of night, and India was condemned by the entire world (Ramana, n.d.). This change in attitude was largely brought about by the entry into force of the NPT in 1970.

Indeed, since 1970 (and at least until now) there has been very little nuclear weapon proliferation. Aside from the five nuclear weapon states recognized by the NPT — the United States, Britain, France, Russia and China, only three other states, India, Pakistan, Israel, and perhaps North Korea, have built nuclear weapon arsenals. However, India and Israel were already far along in nuclear weapons development by 1970. These limited numbers are far from the proliferation of nuclear weapons that President Kennedy so greatly feared.

But the success of the NPT was no accident; it was rooted in a carefully crafted central bargain. In exchange for a commitment from the 180 non-nuclear weapon states to refrain from acquiring nuclear weapons and to submit to international safeguards verifying their compliance, the NPT nuclear weapon states pledged unfettered access to peaceful nuclear technologies and the pursuit of nuclear disarmament negotiations aimed at the ultimate elimination of their own nuclear arsenals. It is this basic bargain, explicitly referred to by Schultz, Perry, Kissinger, and Nunn in their 2007 article, that has formed the central underpinnings of the international nonproliferation regime for the last three decades.

Challenges to Elimination Efforts

The nuclear weapon states, however, have never really delivered on the disarmament part of this bargain and, in recent years, it appears to have been largely abandoned. The essence of the disarmament commitment was that, pending the eventual elimination of nuclear weapon arsenals, the nuclear weapon states would agree to several actions. These actions included a treaty prohibiting all nuclear weapon tests, a negotiated agreement prohibiting the further production of nuclear bomb explosive material, and the undertaking of obligations by nuclear states to significantly reduce their own nuclear arsenals and the role of nuclear weapons in their security policies ("The Treaty on the Non-Proliferation of Nuclear Weapons," 2005). None of these actions has been accomplished over 35 years later. As Mohammed ElBaredi (2004) wrote in an op-ed in *The New York Times*

> If the world does not change course, we risk self-destruction. . . . We must abandon the unworkable notion that it is morally reprehensible for some countries to pursue weapons of mass destruction yet morally acceptable for others to rely on them for security (ElBaredi, 2004).

Now the other side of the bargain has begun to fall apart. The actions of India and Pakistan have eroded the NPT from the outside. In 1998, both India and Pakistan conducted a series of nuclear weapon tests and declared themselves to be nuclear weapon states. Today, India, Pakistan, and Israel continue to maintain sizable unregulated nuclear weapon arsenals outside the NPT. North Korea (the "DPRK") withdrew from the NPT in 2003 and may have built eight to ten nuclear weapons. The new agreement with the DPRK is promising, but the elimination of this probably highly dangerous arsenal is far into the future. The secret Pakistani-based illegal nuclear weapon technology-transferring ring, led by A. Q. Khan, has been exposed, yet who can be sure that we have seen more than just the tip of the iceberg ("A. Q. Khan," 2005)?

Iran is also suspected of having a nuclear weapons program. Contrary to its IAEA safeguards agreement, Iran admitted in late 2003 that it had failed to report its acquisition of uranium enrichment technology. Today, the situation in Iran has grown increasingly serious and has evolved into a major crisis. However, the Iranian threat is long-term, not immediate. Military pressure against Iran is not the answer; rather it is patient, careful diplomacy. Not long ago, Zbigniew Brzezinski, a former U.S. National Security Advisor, wrote: "I think of war with Iran as the ending of America's present role in the world" (as quoted in Ignatius, 2006).

Why might Iran want the nuclear fuel cycle and the attendant option to construct nuclear weapons? The nuclear program is very popular both in Iran and in other non-nuclear countries. One possible reason is that some countries believe that the only way they can ultimately gain respect in this world, as President Lula of Brazil declared during his first election campaign, is to acquire nuclear weapons (de Souza-Barros," 2003). Similarly, India declared in 1998, after its nuclear weapon test series, that it was a big country now that it has the bomb ("We are a Nuclear Power," 1998).

This theory of power and status is not without some basis. For instance, during the Cold War, nuclear weapons distinguished the "Great Powers" from other countries. Furthermore, the five permanent members of the Security Council are the five NPT recognized nuclear weapon states. Forty years ago, Great Britain and France both asserted that status was the real reason they were building nuclear weapons. In a 1958 television interview, British Prime Minister Harold MacMillan made clear the reason the United Kingdom acquired a nuclear weapons program: MacMillan stated that "the independent contribution [i.e., British nuclear weapons] . . . puts us where we ought to be, in the position of a Great Power" (as cited in Pierre, 1972, p. 178). Likewise, in a November 1961 speech, French President Charles de Gaulle stated that "a great state" that does not have nuclear weapons when others possess them "does not command its own destiny" (as cited in Kohl, 1971). In view of all this, we must recognize the possibility that it may simply be too late to attempt to change the course of nations and return to policies which will strengthen and support the NPT and the international non-proliferation regime. Hopefully, the NPT regime can be restored to its former strength, but, as of now, it is in serious trouble. Today, the NPT lacks the support that it enjoyed in the past. An editorial on India in the *Washington Post* indicated as such, stating that "[t]he nuclear Non-Proliferation Treaty is a limited asset: It has not stopped a string of countries from going nuclear, and it's not worth forgoing major prizes such as an Indian alliance in order to preserve it" ("Talking Nukes with India," 2006).

In today's geo-military climate, with a breakdown of world order and the war on terror, the materialization of threats which were feared by President Kennedy many years ago is becoming an increasing possibility. These

threats include the potential failure of the NPT, the ensuing likelihood of widespread nuclear proliferation, and the further dangers that exist with thousands of strategic nuclear weapons remaining on high alert along with a deteriorating Russian early warning system. As a result, it may be too late for nuclear arms limitation. In the interest of the security and safety of us all, perhaps a way must be found to proceed directly to the elimination of nuclear weapons. An elimination strategy could be the answer—a strategy similar to what Paul Nitze suggested over seven years ago and as Messrs. Schultz, Perry, Kissinger and Nunn urgently recommended earlier this year.

Possible Strategies for Limitation and Elimination

How could nuclear weapons actually be eliminated? A possible course of action would be for the President of the United States to address the United Nations in an extraordinary session of the General Assembly. In his speech, the President could call for the world-wide elimination of nuclear weapons and all other weapons of mass destruction. He could request that the Security Council be charged to carry out this task. The Security Council could then call for the negotiation of a treaty to eliminate nuclear weapons. This would require intrusive world-wide, on-site inspections and security guarantees for a number of states on the edge of conflict where nuclear programs are known to exist or may be present, such as Israel, Iran, Pakistan, and North Korea. In addition, North Korea must return to the NPT as a non-nuclear weapon state.

The next step to the gradual elimination of nuclear weapons would be an agreement by all states to apply economic and military pressure to any state that did not comply with this program or that subsequently violated the negotiated arrangements.

In a first phase, the five NPT nuclear weapon states, the United States, Great Britain, France, Russia and China, and the three other longtime holdouts from the NPT, India, Pakistan and Israel, could, over time, negotiate an arrangement to take all of their nuclear weapons off of operational status. Then, in a second phase, these eight states could negotiate an undertaking to reduce their arsenals down to very low levels over a period of years.

A third stage could require these eight states to eliminate all nuclear weapons and material except for a limited amount of such material retained by each of the eight states. This explosive material, or "fissile material," would include both highly enriched uranium and plutonim. India, Pakistan, and perhaps Israel could retain enough fissile material for 5 weapons each, Britain, France, and China could each retain enough for 15 weapons each, and the United States and Russia could each retain enough for 30 weapons each. Each countries' fissile material would be maintained at designated depositories under very high levels of national security protection and international safeguards implemented by IAEA inspectors. This retained material would serve the purpose of providing a hedge against the failure of the disarmament regime as all other nuclear explosive material would be eliminated. As a further hedge against failure, a network of missile defense systems could be cooperatively developed by the world's leading powers.

Gradually, nuclear power production would be reconfigured to use non-proliferative fuels and, eventually, advanced non-proliferative reactors so that there will no longer be a necessity to produce plutonium. The plutonium in existing spent nuclear fuel around the world would have to be eliminated as well. Such an arrangement would take a long time to negotiate and even longer to implement, but we must try, for the hour is late. A final stage, years in the future, could be the verifiable elimination of the fissile material retained by the eight nuclear states. This final step could be concluded once the issue of "missing" fissile material, a feature of the nuclear weapon inventories in virtually all of the nuclear weapon possessing states, has been effectively addressed.

Some might say that this program is unrealistic, that neither the United States government nor any government of a nuclear weapon state would ever contemplate such a thing. But increasingly, it appears imperative that we should make the elimination of nuclear weapons a real objective and remember that nothing good is ever impossible. For instance, who would have thought that the "zero European missile" option proposed by President Reagan in 1981 would ever happen? Who would have thought that the Soviet Union would ever commit to real nuclear disarmament and on-site inspection? Who would have thought the Cold War would end in the foreseeable future? Who would have thought that the Soviet Union would cease to exist? But all of these things did happen.

The Role of the United States

It must be remembered that in order to have any chance to achieve the elimination of nuclear weapons and to establish a peaceful and secure world community in the 21st century, the United States must lead; there is no other alternative. This leadership requires that the United States be believed and trusted. On September 12, 2001, the United States had the trust and support of the entire world. Now, in the wake of the United States' invasion of Iraq, its rejection of some of the rules of international humanitarian law and the Geneva Protocols on the treatment of Prisoners of War, and its rejection of international treaty arrangements such as the Comprehensive Nuclear Test Ban Treaty, the Ottawa Convention on land mines, the International Criminal Court, the Kyoto Protocol on global warming, the trust and support that the United States once enjoyed is gone.

The United States is now reviled and feared in many quarters of the world. A recent poll of 26,000 people in 25 countries showed a sharp deterioration in the world's view of the United States in the past two years (Kessler, 2005). Nearly three quarters of the respondents disapproved of the United States' policies in Iraq and nearly half of those surveyed said that the United States is playing a predominantly negative role in the world (Kessler, 2005). Senator John McCain recognized this disturbing trend when he said some months ago that, "America's position in the world is at an all-time low" (as quoted in Thomas & Hirst, 2005).

How can we regain the trust of the world community? How can we return to our historic destiny of keeping the peace and fostering the development of nations, democracies, free market economies, the international rule of law, international institutions, and treaty arrangements?

First, we should resolve our intervention in Iraq in a constructive manner as possible. The future of Iraq belongs to the Iraqis, we cannot ensure it for them; only the Iraqis can build a new Iraq. As former Defense Secretary Melvin Laird (2005) urged in his article in the publication *Foreign Affairs*, at an early date we must firmly and carefully turn over the struggle against the insurgency and chaos to the Iraqis. Our presence is what feeds the insurgency and it does little to prevent the slide toward civil war. A steady, gradual, but inexorable withdrawal, while at the same time doing our best to train the Iraqi forces, would strengthen the confidence and ability of the Iraqi security forces, enabling them to eventually stand up to the forces of disorder (Laird, 2005).

Second, we must recognize that, in the wake of the Cold War, the world has fundamentally changed. The nation-state system that dominated international life for the last 350 years is rapidly deteriorating. Perhaps some 50 to 70 nations around the world are inexorably slipping into the category of failed states. We cannot go it alone.

Poverty, disease, cultural misunderstandings and machine-gun societies around the world are central national security threats and the principal causes of international terrorism. The primary weapons in the battles against terror and a declining world order are economic, political, social, cultural, and diplomatic initiatives. Military force should only be used rarely.

Since the end of the Cold War, there has been roughly one major nation-building intervention every two years. Reconstruction in failed states is relatively well understood. But in many cases, the necessity of institution-building is essential to return failed states to a functional level. But to cite the well-known historian Francis Fukuyama from his book, *Nation Building*,"although institutions may be important, we know relatively little about how to create them" (p. 6). He went on to write that "[c]oalitions, in the form of support from a wide range of other countries and international organizations . . . are important for a number of reasons" (p. 238). Thus, Fukuyama takes the position that the United States should engage in these measures, but only with the support of other nations.

Lastly, for over fifty years, the United States pursued a world order built on rules and international treaties—a world that permitted the expansion of democracy and the enlargement of international security. Almost two years ago, in a speech before the American Society of International Law, Secretary of State Condaleeza Rice said that when the United States respects its "international legal obligations and support[s] an international system based on the rule of law, we do the work of making the world a better place, but also a safer and more secure place for America" ("Remarks of Secretary Condaleeza Rice," 2005). In order to implement this goal, we should take steps such as ratifying the Comprehensive Nuclear Test Ban Treaty, joining the Ottawa Land Mine Convention, becoming a part of the International Criminal Court, and establishing ourselves again as leading advocates of the international rule of law.

From this base, we could actively pursue the objective of restoring the NPT, thereby urgently seeking the essential ultimate goal of achieving a safe and secure world for our children and grandchildren by realizing Ronald Reagan's dream of a world free of nuclear weapons. Nothing is too difficult for humanity if people stay committed and dedicated—men did walk on the moon. The Cold War ended relatively peacefully and the complete and verifiable worldwide elimination of nuclear weapons can eventually be within our grasp as well. ◆

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Putting Women in Their Place

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Should the promotion of women's equality be a policy priority to help ensure peace? Women's[6] equality does, in fact, promote state security. Policies focusing on the promotion of women's equality, therefore, go far beyond issues of social justice to fundamental issues of national security and the defense of state interests abroad. Thus we call for preemptive policy in support of women's equality in order to decrease the likelihood of both intra- and interstate conflict. In other words, we seek to eliminate an important and often overlooked source of conflict that fuels violence.

We make no claim that women's equality is the most important predictor of conflict because it certainly is not. The causes of conflict are numerous and often relatively static. For example, contiguity, the number of neighbors a state has is a consistent and significant predictor of conflict; however, a "static condition [contiguity] cannot, by itself be the cause of a nonstatic outcome [international conflict]" (Gochman, 1998, p. 3). Not only is it difficult to predict and, therefore, prevent conflict based on such causes of conflict, but such causes are also not responsive to policy. Policy will not reduce the number of neighbors that a state has. Women's equality, however, is amenable to policy change and is a consistent predictor of both international violence and internal conflict.

Furthermore, the fate of women has been tied to that of the state. Over the last two decades or so, our understanding of various fields within the social sciences has profited by greater attention to women. We now know, for example, that women's equality promotes economic development. Indeed, Boserup (1970) demonstrated that omission of gender aspects of development led to project failure. Since that pioneering work, we have seen fruitful waves of successive research in the paradigms of Women in Development (WID), Women and Development (WAD), and Gender and Development (GAD) (Chen, 1992; Chowdery & Nair, 2002; Jacobson, 1992; Rathgeber, 1990; Sen, 1989;). Similarly, scholars have demonstrated strong cross-national linkages between gender variables and variables such as national economic performance (King, 2001).

As a result of this research, regional and global development planners now routinely address the role of women in development. For example, the UN Millennium Goals include the goal of empowering women and occasioned "Women Watch 2000" (later renamed The World's Women), an effort to more closely monitor the status of women on a cross-national basis to formulate non-traditional indicators of development (United Nations Statistics Division, 2006). More recently, the Arab Development Reports of 2002 and 2005 identified the generally low status of women in Arab societies to be one of the four major variables

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6. We use the terms woman and gender interchangeably because in practice female is identified with woman. We recognize, however, that the two terms are distinct as gender is predicated on social construction, and woman, on biology.

retarding growth and advancement therein. The major studies in this field have in common the ability to show statistically significant links between the status of women and variables (in this case, economic development) defined at the state level.

Beyond issues of development, women's equality increases a state's political stability and economic growth. For example, countries with exaggerated gender inequality—defined as highly abnormal sex ratios in favor of males—experience higher societal instability and diminished prospects for both peace and democracy (Hudson & Den Boer, 2004). Although women's equality is by no means guaranteed by democracy (Caprioli, 2004), less democratic regimes are more likely to be based on gender inequality. These regimes thrive "on gendered foundations, relying particularly on the construction of masculinity and femininity which assigns particular 'traditional' roles to women" (Waylen, 1996, p. 114).

The link between women's equality and state wealth/income (GDP) is particularly interesting because state wealth has consistently proved statistically significant in predicting war (see Maoz & Russett, 1993), and adverse economic conditions serve as a catalyst for war (Morgan & Bickers, 1989; Morgan & Campbell, 1991; Russett, 1990; Smith 1996). Thus, in this case, the inclusion of women as equal members of society should reduce conflict indirectly as state wealth increases. One comparative study between Botswana and Ghana showed that even when controlling for differences in income levels, investment rates, economic "openness," and population and labor force growth, as much as 1.3 to 1.6 percentage points of the 5.3 percentage point difference in annual growth could be attributed to gender inequalities in education (Dollar & Gatti, 1999).

Thus, the fate of a state's development, economic growth, and political stability rests, in part, on how a state treats its women. Herein, we highlight, based on information from the WomanStats database, some of the worst offending states with regard to women's equality after first briefly examining the link between women's equality and state security. Before turning our attention to these endeavors, however, it is important to clarify an issue. We argue that more equal societies are less prone to use violence based on societal norms of equality and tolerance (see Caprioli, 2005) rather than making an argument based on nature—that, for example, women are more peaceful.

Women's Equality and State Security

The empirical literature concerning national security, stability, and foreign policy behavior remains more nascent than that on development. Nevertheless, it is natural to ask, if the security and status of women significantly affect a state's economic situation, do they also significantly affect a state's internal and external security situation? Does the differing security and status of women among states affect their interaction?

Such provocative questions are only now beginning to be raised, and, interestingly, a major catalyst has been the events and sequelae of September 11th. For example, the Bush Administration suggested that the abysmal condition of women under the Taliban regime provided both a partial explanation for the growth of terrorism there, as well as a partial rationale for the invasion of Afghanistan (2001). Some have even proposed a direct link between terrorism and the treatment of women, suggesting that young men being brought up in isolation from women due to certain gender status beliefs, such as existed in Afghanistan under the Taliban, perpetuated an environment of extremism (Rashid, 2001). Laura Bush expressed in public the belief that, "the fight against terrorism is also a fight for the rights and dignity of women . . . The brutal oppression of women is a central goal of the terrorists" (2001). The first post-invasion photos of Afghan girls going to school and Afghan women unveiling their faces were interpreted as tangible evidence that conditions were improving in that benighted land.

Since then, world attention has begun to more seriously inquire about the relationship between political

violence and the status of women. These questions were first raised in regards to Islam. States such as France have reacted with uncharacteristic fervor in banning the Muslim headscarf from the heads of schoolgirls, seeing in the hijab some connection to possible ethnic strife. The fracturing of Nigeria appears at first glance to be based on religion, but women's status could be the more fundamental issue. As Jan Jindy Pettman has put it, "women are the boundary of the nation," and what maintains or changes the status of women may alter the situation of the state (1996).

Observers are beginning to wonder whether the rationalization of terrorism does not bear a significant parallel to the rationalization of violence against, and oppression of, women. Jean Bethke Elshtain, for example, asserts with reference to the differences between Western culture and radical Islamic culture that, "we underestimate the centrality of the gender question at our peril . . . [G]ender practices are not a sidebar to the war against terrorism as a cultural struggle, but a central issue" (2003, pp. 38, 40). In a recent empirical analysis of Moslem societies, Steven M. Fish debunks the notion that Islamic societies as a rule are disproportionately involved in conflict or disproportionately suffer from authoritarian rule (2002). Rather, Fish uncovers two indicators that better explain the striking variance of these variables in the Islamic world: the sex ratio and the literacy gap between males and females. Fish finds that models incorporating these two variables are significantly correlated to authoritarianism in Islamic countries, meaning that Islamic countries that actively oppress females are also the most prone to national dysfunctionality. He hypothesizes that the oppression of the female—one of the earliest social acts observed by all in the society—provides the template for other types of oppression, including authoritarianism.

Thus gender inequality is a barrier to peace and a harbinger of violence for both intra- and interstate conflict. In March 2006, Kofi Annan, then Secretary-General of the United Nations, stated,

> The world is starting to grasp that there is no policy more effective in promoting development, health and education than the empowerment of women and girls. And I would venture that no policy is more important in preventing conflict, or in achieving reconciliation after a conflict has ended.

The linkage between women's security and national security is clearly beginning to enter the public imagination.

The body of literature addressing the issue of women and security is growing, as academics and politicians alike turn their attention to gender relations as a linchpin of peace prior to (Caprioli 2000, 2003, 2004; Caprioli & Boyer 2001; Caprioli & Trumbore 2003a, 2003b, 2006; Regan & Paskeviciute, 2003) and after conflict (see Meintjes, Pillay & Turshe 2001; Mertus 2000), in addition to the need to include women in peace negotiations as codified in UN Resolution 1325 (Hunt & Poser, 2001). This literature explores the influence of domestic inequality on state international behavior. In short, state domestic culture in both its behavior and underlying values helps predict state international behavior during interstate disputes and crises. As with international conflict, the literature on intrastate conflict emphasizes the role of domestic culture in predicting intrastate conflict (Ayres, 2000; Caprioli, 2005; Ellingsen, 2000; Fox, 2001; Gurr, 1994; Henderson, 1997; Mazrui, 1990; Melander, 2005; Saideman, 1997).

Values (culture, social norms, etc.) are particularly important in predicting state bellicosity. Values identify desirable behaviors and alternatives and limit possibilities (Feather, 1996). In other words, cultural norms impose rules that govern social behavior, separating legitimate from illegitimate behavior. Feather (2004) argues that power values, as manifested in women's inequality, are concerned with dominance, social power,

and authority. His work finds a positive correlation between power values and hostile sexism, particularly among males. Furthermore, Bardi and Schwartz (2003) note that those who value power exhibit dominating behavior. Values, therefore, are crucial indicators of peace and violence. Indeed, peace and conflict resolution are based on worldviews of nonviolence—a relationship that goes beyond ideology to structures that reinforce these shared beliefs (Bonta, 1996). A sustainable peace, therefore, is predicated on fostering fundamental societal changes that include gender equality (Hunt & Posa, 2001).

Empirical studies by Mary Caprioli and co-authors linking measures of domestic gender inequality to state-level variables concerning conflict and security reveal important and statistically significant relationships. Caprioli and Boyer show that states exhibiting high levels of gender equality also exhibit lower levels of violence in international crises and disputes (2001, p. 511). Aggregate data involving such cases over a fifty-year period shows statistically significant relationships between the level of violence in crisis, the percentage of women in parliament, and the percentage of female leaders in crisis. Caprioli extends this analysis to militarized interstate disputes and finds a similar relationship (2003). States with the best gender equality displayed lower levels of aggression in these disputes and were less likely to use force first (see also Marshall & Ramsey, 1999).

Virtually the same pattern was found with respect to intrastate incidents of conflict (Caprioli, 2005; Melander, 2005). Caprioli suggests, "[S]cholars need to analyze the effects of inequality [of women] on the state—specifically state behavior internationally . . . [D]omestic norms of violence inherent in structural inequality transfer to the international arena just as domestic norms of peaceful conflict resolution do" (p. 265). Caprioli and Trumbore find that states characterized by norms of gender and ethnic inequality as well as human rights abuses are more likely to become involved in militarized interstate disputes and in violent interstate disputes (2006a), to be the aggressors during international disputes (2003a), and to rely on force when involved in an international dispute (2003b). Sobek, Abouharb, and Ingram (2006) confirm Caprioli and Trumbore's findings that domestic norms centered on equality and the respect for human rights reduce international conflict. In sum, the promotion of gender equality goes far beyond the issue of social justice. It is a necessary condition for international peace.

The link between inequality and violence, and more specifically between gendered inequality and violence leads UNESCO (1995) to conclude that inequality between men and women is an impediment to sustainable peace. In other words, achieving peace necessitates "overcoming social relations of domination and subordination" (Tickner, 1992, p. 128). Gendered structural hierarchies, which are maintained by norms of violence and oppression, should result in higher levels of inter- and intrastate violence by both inuring people to violence and providing them with a framework for justifying violence.

Empirical Evidence

As argued above, women's equality is a harbinger of peace. Yet a policy and academic focus on women with its concomitant need for data is late in coming. As scholars and politicians start to recognize the importance of gender equality to political and economic stability as well as peace, indices on gender equality have become more important. Due to a lack of data, most scholars have relied on one or more single indicators to measure women's status.

The October 2006 report to the United Nations General Assembly on violence against women noted that knowledge base problems are one of the most important issues for policy and strategy development that must be solved in order for such violence to be properly addressed (UN VAW, October 2006, www.un.org). More specifically, the report highlights the lack, unreliability, and inconsistency of existing country data. We rely on the WomanStats database (see Caprioli et. al., 2007 for a full description), which makes great strides

in addressing the problems identified by the United Nations. WomanStats provides data for issues ranging from violence against women to healthcare, social, legal, economic, physical security, and many other topics. WomanStats includes approximately 245 variables for each of 172 countries (those countries with populations greater than 200,000) and their attendant subnational divisions for a total of almost 41,040 individual data points. These data points have been coded into variable clusters of which we use the physical security cluster. In acknowledging the frequent discrepancy between rhetoric, law, and practice, WomanStats includes data on three aspects of each cluster variable—law, practice/custom, and data.

Women's Physical Security

In keeping with the link between norms of inequality and violence presented above, we will discuss the *Women's Physical Security Cluster*. As theory linking women's equality and state behavior is often based on violence against women, a variable capturing violence against women seems particularly apropos. The WomanStats physical security cluster includes the following variables (WomanStats, 2007):

Domestic Violence

- Law 1—Are there laws against domestic violence?
- Practice 1—Are laws against domestic violence enforced?
- Practice 2—Are there taboos against reporting domestic violence?
- Data 1—How prevalent is domestic violence?

Rape

- Law 1—Are there laws against rape? Statutory rape and age of consent?
- Practice 1—Are laws against rape enforced?
- Practice 2—Are there taboos against reporting rape?
- Data 1—How prevalent is rape?

Rape Concerning Mothers

- Law 2—Are there laws against marital rape?
- Practice 1—Are laws against marital rape enforced?
- Data 1—How prevalent is marital rape?

Murder

- Data 1—What is the percentage of women 15-44 murdered?
- LRW Practice 3 - Practice of Honor Killings. Can a woman be killed or otherwise punished if she is raped—even if she is obviously innocent?

These indicators of violence against women are combined into a single measure, ***Women's Physical Security,*** coded as follows:

0—There are laws against domestic violence, rape, and marital rape; these laws are enforced; there are no taboos or norms against reporting these crimes, which are rare. There are no honor killings.

1—There are laws against domestic violence, rape, and marital rape; these laws are generally enforced; there are taboos or norms against reporting these crimes (or ignorance that these are reportable crimes), which crimes are not common. Honor killings do not occur.

2—There are laws against domestic violence, rape, and marital rape; these laws are sporadically enforced; there are taboos or norms against reporting these crimes (or ignorance that these are reportable crimes), which

are common. Honor killings do not occur.

3—There are laws against domestic violence, rape, but not necessarily marital rape; these laws are rarely enforced; there are taboos or norms against reporting these crimes (or ignorance that these are reportable crimes), which affect a majority of women. Honor killings may occur among certain segments of society but is not generally accepted.

4—There are no or weak laws against domestic violence, rape, and marital rape, and these laws are not generally enforced. Honor killings may occur and are either ignored or generally accepted. (Examples of weak laws—Four male witnesses are needed to prove rape, and rape is only defined as sex with girls under 12—all other sex is by definition consensual, etc.)

Fifty-nine, or 34.5 %, of all states *(see Table 1 below)* earn the worst score of *4*—a score that highlights the state of violence, discrimination, and inequality for women around the world.

TABLE 1
States with the Highest Level of Violence Against Women Based on WomanStats Physical Security Cluster, circa 2000

Afghanistan	Congo, DR	Kuwait	Solomon Islands
Algeria	East Timor	Lebanon	Somalia
Bahrain	Egypt	Libya	Sudan
Bangladesh	Eritrea	Macedonia	Swaziland
Botswana	Ethiopia	Mexico	Syria
Brazil	Gambia	Morocco	Tajikistan
Burkina Faso	Georgia	Mozambique	Tanzania
Burma/Myanmar	Ghana	Nepal	Turkey
Burundi	Guinea Bissau	Nigeria	Turkmenistan
Cambodia	India	Oman	Uganda
Cameroon	Indonesia	Pakistan	United Arab Emirates
Central African Republic	Iran	Peru	Uzbekistan
Chad	Iraq	Qatar	Yemen
Congo	Jordan	Saudi Arabia	Zimbabwe
Cote d'Ivoire	Kenya	Sierra Leone	

* Brunei and North Korea are not coded due to missing data.

The variation in this list is noteworthy. First, there are both poor and rich states in this list; for example, Central African Republic and Kuwait. There are relatively powerful states, such as Brazil and India, and quite powerless states, such as East Timor and the Solomon Islands. There are Islamic states and states with very few Muslims, such as Cambodia. There are both American allies and American enemies on this list. There are former Soviet states, and states that were pro-West during the Cold War. There are states in collapse and states with a fairly stable governmental system. There are dictatorships and democracies. In short, if we believe that there is a certain formula that decreases violence against women, for example, "'democracy," or "stability,'" we would be sorely mistaken. Violence against women cuts across all of our preconceived notions concerning

the conditions that bring stability to the world system. In practical terms, we cannot assume that a panacea exists—a single policy that will work for all women across all states or one that will bring international stability. It also means that unless we build in women from the very foundation of our preferred formula, we cannot infer that women will benefit from that formula or that the state will benefit in the manner that we would hope.

Brazil and the Pakistan: Exemplars of States Violating Women's Security

Brazil and Pakistan were chosen randomly to illustrate the reality within which these women find themselves in those states with the highest level of violence against women. All the information provided below is taken from the WomanStats database.

Brazil—A convicted rapist can legally escape punishment by marrying his victim or if the victim marries a third person and does not request or require an investigation or criminal proceedings. On the surface, it would appear reasonable for women to report rape for both rape and spousal rape are crimes punishable by eight to ten years imprisonment. In reality, however, there would be little reason for the rape victim to pursue criminal proceedings because men who kill, sexually assault, or commit other crimes against women are unlikely to be brought to trial. This lack of judicial follow-through is coupled with an increase in the number of reports of sexual crimes and violence against women perpetrated by police officers.

Shelters and task forces within police departments were created to assist women and facilitate investigation of sexual violence against women. Unfortunately, there is a lack of trained staff and governmental support. Both of these factors serve to undermine this mission. It is estimated that, in Brazil, every four minutes a women is attacked in her own home by someone with whom she is emotionally involved.

Both rape and domestic violence victims may be forced to become defendants. There is a pervasive belief that for such crimes the victim has to prove that she is not guilty and that she did not contribute to the commission of the offense. Indeed, the Penal Code contains provisions that require the victim to be an "honest" woman in order to prosecute.

Brazilian women must carefully consider the existence of honor killings before reporting rape. Men can justify killing their partner based on self-defense of honor. Thus a woman can be killed if her partner, even without any reasonable proof, thinks she is having an adulterous affair. Furthermore, there is no specific distinction between consensual adultery and rape. As with murderers, men who commit acts of domestic violence are often set free if the man claims his actions were in self-defense of honor. And even more telling is the lack of a specific national law to prevent, punish, and eradicate domestic violence, most of which remains unreported—especially when family is involved. In general, punishment regarding domestic violence is lenient with a notable absence of specific laws to address it.

Pakistan—Marital rape is not criminalized and rape is not sufficient ground for divorce. As with Brazil, prosecutions for rape are rare with some activists claiming that Pakistan's laws make the prosecution of rape virtually impossible. Rape and gang rape are pervasive problems and are attributed to a combination of tribalism, retrogressive cultural values, and a corrupt criminal justice system. Indeed, there are reports in which women who have been raped are held on crimes of adultery while the perpetrator goes free. The costs for reporting rape are high because police are sometimes implicated in the crime, female testimony is not equal to that of a man's, and honor killings continue to occur. Especially after a woman is raped, honor killings occur and yet the government does little to prosecute the crime.

There are no specific laws pertaining to domestic violence. As is the case in most other countries, domestic affairs are considered a private matter and domestic violence is usually not reported. Even when it is reported, it is often not considered seriously by authorities. Pakistani law is wholly inadequate in protecting

women victims of domestic violence and in penalizing batterers. Indeed, domestic violence is not explicitly prohibited by a specific, targeted, and distinct set of laws.

These brief illustrative examples of violence against women in Brazil and Pakistan should horrify, though such is not our intent. This lack of security for women is reflected in state behavior internationally. It is precisely these characteristics of states—how they treat their women—that make them more likely to act aggressively in the international arena (a theory briefly discussed above and further elaborated in Caprioli et. al., 2007). Clearly, some of these issues can be targeted by policy. For example, foreign aid can be tied to laws benefiting women such as requiring a full-fledged, fully-funded campaign aimed at ending honor crimes and eradicating the "self-defense of honor" for men.

Examining State Behavior Internationally *Based on the* WomanStats Women's Physical Security Cluster

To help illustrate the international behavior of those states characterized by violence against women, we provide some information on the international conflict behavior of these states. As social change is slow and incremental with general political-cultural orientations (Eckstein 1988, p. 798), we can confidently assess from 1990 to 2001 the international conflict behavior of states using the WomanStats Physical Security Cluster for 2000.

In the following examination regarding the international conflict behavior of those states with the highest levels of violence against women, both the Militarized Interstate Dispute and the First Use of Violent Force databases are used. The MID data set (Ghosn & Palmer, 2003) provides data on state involvement in interstate conflicts and state behavior during conflict. We use the MID hostility level variable, which is coded as follows: (1) no militarized action, (2) threat to use force, (3) display of force, (4) use of force, and (5) war.

With MID, we can track the number of interstate conflicts and the number of violent interstate conflicts:

Conflict Involvement—This variable indicates the number of interstate dispute onsets that a state had for that year. In other words, the variable captures the number of new, rather than ongoing interstate conflicts in which a state became involved for that year.

Violent Conflict Involvement—This variable identifies the number of violent interstate dispute onsets in which a state was involved for that year. Interstate conflict occurs along a continuum as demonstrated by the MID hostility level variable discussed above. States become involved in interstate conflict for a variety of reasons—not all of which result in violence. A violent MID is one that scores either a 4 (the use of force) or 5 (war) on the hostility scale.

The ***First Use of Violent Force*** (FUVF) data (Caprioli & Trumbore, 2006b, p. 742) allows us to assess more directly the violent behavior of states and isolates the first use of violent force from the dynamics involved with the reciprocal use of violence (Wilkenfeld, 1991). The first use of violent force is undeniably an act of aggression that escalates the level of conflict.

First Use of Violent Force—This variable is coded as the first state to use military violence in violent interstate disputes. First use of violent force (Caprioli & Trumbore, 2006b, p. 743) captures that first punch thrown—an unmistakable measure of violence and aggression.

Of those states[7] characterized by high levels of violence against women, only Algeria, Brazil, Burkina Faso, Gambia, Mexico, Nepal, and Somalia avoided international conflict from 1990-2001. During that time, there were 144 states involved in 949 militarized interstate disputes. A quick snapshot reveals that those 58 states with the highest level of violence against women were involved in a total of 334 militarized interstate

disputes during the same time period.

The interstate conflicts in which states characterized by violence against women are involved are more likely to be violent than those of other states. When states with high levels of violence against women are engaged in international conflict, that conflict is violent 65.9% of the time. The corresponding for all other states is 50.8%. Similarly, 3 % of interstate conflicts in which states characterized by violence against women are involved escalate to war, with the corresponding figure 2.6 % for all other states. Additionally, 22.8 % of violent interstate conflicts in which states characterized by violence against women use force first with the corresponding figure 18.7 % for all other states.

Thus those states characterized by violence against women evidence violent behavior during conflict though they seem no more likely to be involved in conflict. In other words, states characterized by high levels of violence against women are also more likely to be involved in international conflicts with high levels of violence. Specifically, violence against women explains nearly 15 %[8] of the likelihood that a state will become involved in violent militarized interstate disputes.

Implications

One of the implications of our research, though it is at the exploratory stage, is that it is time for U.S. policymakers to rethink what we mean by our preferred solution to the problems of states and the international system. As scholars have demonstrated, issues of women's equality go far beyond issues of social justice and are integrally linked to the health of the state. U.S. policymakers are quick to recommend democracy as both a cure for state and regional instability and as a policy to ensure American interests abroad. But as evidenced by the list of states with the highest levels of violence against women, democracy is not in itself capable of promoting women's equality. And without equality for women, the political and economic stability of the state is compromised, as are U.S. interests.

If democracy is to be the answer, we must redefine what we mean by democracy to include, as part of its definition, guaranteed basic rights for women, on a par with rights for men. And states must be active in providing special protections for women against violence and in ensuring equality for women, including women's participation in the national assembly. Procedural democracy itself, without elevating the situation of women, will not produce stable, peaceful societies. Promoting the cause of basic rights, security, and voice for women is no fringe, boutique issue. To the contrary, it is central to what we hope to accomplish by the promotion of democracy. In sum, if we hope to ensure stability, protect U.S. interests abroad, and minimize international conflict, then women's equality cannot be relegated to second place. ◆

7. East Timor did not become a state until September 2002 and as such, could not be involved in any international conflicts from 1990-2001.

8. Pearson coefficient (2-tailed) .144, $p<.000$

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Book Review
Suicide And The Living Constitution

Richard A. Posner, *Not a Suicide Pact: The Constitution in a Time of National Emergency* (New York: Oxford University Press, 2006) pp. xi, 171. $18.95

Reviewed by *Glenn Harlan Reynolds*[1]

For much of my life, I've been hearing people talk about the importance of a "living Constitution." A living Constitution is one that is not stagnant but that responds to changes in circumstances by adjusting the balance of power between government and the individual. A living Constitution promotes important social ends and avoids the trappings of rigid eighteenth century rules and categories.

Take, for example, the Supreme Court's embrace of massive new economic powers on the part of the federal government during the New Deal era. The Court's shift has been viewed as a response to the new challenges posed by global financial markets, massive multistate and multinational corporations, and the demands of labor for security and recognition. The old divisions, in which interstate commerce (subject to federal regulation) was seen as the exception, while purely local commerce (immune from federal regulation) was seen as the norm, however charmingly archaic, had to be left behind in favor of a new arrangement. In the new and different world, the old balance between federal power and such outmoded individual rights as "freedom of contract" had to give way to a new balance in which federal powers became the norm, and areas unreachable by federal power—chiefly those protected by select parts of the Bill of Rights—were the exception. Those who chafed at this new arrangement were generally portrayed as mossbacks or enemies of progress, and in no sense to be taken seriously, as their views would lead to the Constitution becoming a straitjacket that would place the nation's very survival in peril.

This "living Constitution" approach seemed to have settled in as the norm in public discourse to the point where those who challenged it were regarded as outside the mainstream and unfit for public office. But now the living Constitution has acquired a new champion in Judge Richard Posner, whose recent book, *Not a Suicide Pact,* is nothing less than an endorsement of this philosophy as applied to matters of national security. Strangely, though, Posner's application of living Constitution jurisprudence to questions relating to terrorism, surveillance, and detention of unlawful combatants has produced a considerable backlash, largely from those who, in other contexts, have generally championed an open-ended approach to constitutional interpretation and government power in general.

Writing in *The New York Times*, for example, Michiko Kakutani complains,

> This willingness to bend the Constitution reflects Judge Posner's archly pragmatic approach to the law and his penchant for eschewing larger principles in favor of utilitarian, cost-benefit analysis. Efficiency, market dynamics and short-term consequences are what concern Judge Posner, not enduring values or legal precedents. One result is a depressing relativism in which there are no higher ideals and no absolute rights worth protecting.[2]

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1. Beauchamp Brogan Distinguished Professor of Law, University of Tennessee. J.D. Yale Law School, 1985; B.A. University of Tennessee, 1982.
2. Michiko Kakutani, *A Jurist's Argument for Bending the Constitution*, N.Y. Times, September 19, 2006, at E1.

Kakutani sounds positively mossbacked and eerily like Judge Robert Bork, whose criticism of the Warren Court's expansion of privacy rights in areas like contraception and abortion is also couched in worries about "relativism" and excessive flexibility. [3]

Yet flexibility and pragmatism are, in fact, the hallmarks of Posner's analysis, and the justifications he offers for taking an approach that many civil libertarians distrust sound rather familiar to those who have followed the Supreme Court's New Deal opinions. Posner writes:

> The balancing approach that I am advocating to determining the scope of constitutional rights in emergency circumstances highlights the dynamic character of constitutional law—the fact that the scope of a constitutional right changes as the relative weights of liberty and safety change. . . . It may be objected that a decision process based on a balancing of risks and harms is unworkable if the risks and harms cannot be measured. . . . But we cannot avoid making such judgments and there is no good alternative to making them pragmatically.[4]

Posner also responds to his civil-libertarian critics by stressing the dynamic quality of history and constitutional interpretation, noting that in practice his proposal is nothing new:

> Civil libertarians tend to slight significant historical episodes in which the nation was endangered by subversive activities that challenged the reigning concepts of civil liberties. One such episode was the Civil War, during which, as we know, Lincoln found it necessary to suspend habeas corpus and take other repressive measures against Confederate subversion. Another was the 1940s, when the Soviet Union penetrated many federal agencies, unions, and other institutions and stole atomic secrets that accelerated Soviet acquisition of a nuclear capability. That acquisition in turn emboldened Stalin to encourage North Korea to invade South Korea, precipitating a war that killed thirty-six thousand American soldiers and more than two and a half million Koreans and Chinese. . . . Civil libertarians neglect a genuine lesson of history: that the greatest danger to American civil liberties would be another terrorist attack on the United States, even if it was on a smaller scale than the 9/11 attacks—but it could be on the same or even a much larger scale. The USA PATRIOT Act, which civil libertarians abhor, was passed within weeks of those attacks; it never would have been passed, or in all likelihood even have been proposed, had the attacks been thwarted. [5]

Speaking as one of those civil libertarians, my feelings on this analysis are mixed. Posner is clearly right when he suggests that preventing terrorist attacks is the best way of ensuring that civil liberties suffer no further infringement. Public support for national security efforts is currently ebbing, not least because there have been no significant terrorist attacks since 9/11. People who complained immediately after 9/11 that law

4. Richard A. Posner, *Not a Suicide Pact: The Constitution in a Time of National Emergency*, 40-41 (2006).
5. *Id.* at 45-46.

enforcement and intelligence agencies didn't do enough to "connect the dots" are now back to worrying that government surveillance might go too far. Should terrorists detonate an Iranian atomic bomb in Houston, Detroit, or Pittsburgh, we will be certain to see demands for additional surveillance and investigative powers dwarfing anything we saw after the 9/11 attacks.

This suggests that law enforcement powers are like preventative medicine: Too much, and you have problems; not enough, and you have problems, too—plus the need for more medicine. And as the old saw about medicine has it, "the poison is in the dose." Alas, our current debate is seldom that nuanced.

Posner is also right to suggest that many of these tradeoffs, unlike those with medicine, cannot be readily quantified. We don't know whether allowing "sneak and peek" searches will prevent another terrorist attack or not: the costs in terms of lost privacy are obvious up front, while the benefits are conjectural—and, sometimes, not fully apparent even when they materialize. This makes striking a balance difficult: we may overweigh the lost freedoms because they're obvious, while discounting their benefits—or, we may discount the loss, and (because we can imagine many threats that will never actually materialize) overweigh the risk of terror attacks. And government officials can be assured that they will be criticized for intrusive security efforts—and then, if there is an attack, criticized (often by the same people) after the fact for not engaging in enough intrusive security efforts.

The popular debate tends to polarize into pro-security and pro-civil liberties camps, each mistrusting the other. Yet in truth, there is no obviously "right" answer, even in retrospect—would we have won the Civil War without Lincoln's suspension of habeas corpus? Perhaps, but who knows? —and reasonable people can assign different weights to various interests, and different probabilities to various events. Yet pretty much everyone seems to adopt a posture of certainty, and to deride opponents' positions.

If nothing else, Posner's respectful and rational attitude represents an improvement on the talking-head debates. And while I disagree with many of his policy suggestions (I think the balance he strikes on torture, for example, is wrong, Jack Bauer not withstanding), I think that Not a Suicide Pact has done much to advance a debate that is much in need of advancement. What's unfortunate is that we have seen so little of this kind of calm, reasoned discussion in a national security debate that has featured far more heat than light. ◆

Attitudes Toward Courts Versus Other Institutions Of Government: *Results of a Survey of Political Science Students at the University of Tennessee*

John M. Scheb II
Sarah Young

Introduction

One of the well-documented ironies of American democracy is that the Supreme Court, composed of life-tenured, unelected judges, consistently receives higher approval ratings than does Congress, which is comprised of the people's elected representatives (see, e.g., Caldeira & Gibson, 1992; Dennis, 1981; Marshall, 1989; Mondak & Smithey, 1997). This research note examines whether that discrepancy exists with respect to institutions at all levels of government. Our thesis is that citizens tend to rate judicial institutions higher than legislative or administrative institutions, even though they may have little information about what these institutions are doing in terms of policymaking. We are not arguing that the policies produced by governmental institutions are unimportant to the public. To the extent that people become aware of policies, they matter greatly in forming assessments of institutional performance. However, we believe that there exists in the mass political culture a set of stereotypical notions about courts, legislatures, and other governmental institutions. These stereotypes strongly influence people's ratings of the performance of these institutions, even in the absence of information about policymaking. We contend that these notions are transmitted through the political socialization process, the educational system, the mass media, and the popular culture.

Our thesis is founded in part on the distinction between specific and diffuse support first posited by David Easton (1975). Specific support refers to the evaluation that the public has of the particular individuals who hold institutional offices and the policies they produce. Diffuse support is a more general measure of institutional legitimacy based upon what the institution actually is or what it represents. Easton suggests that institutions build up a reservoir of favorable attitudes with the public which mitigate the effects of citizens' individual opinions regarding particular policy outcomes, and this reservoir is expressed as institutional legitimacy. Diffuse support is less variable and more durable over time than specific support. Hence, citizens quite often disapprove of a particular Supreme Court decision, a piece of congressional legislation, or a new federal regulation while continuing to support the Supreme Court, the Congress, or the Federal Trade Commission.

Scholars have paid particular attention to the role of diffuse support regarding the Supreme Court. James Gibson and others have contended that although citizens perceive the Court uses fair procedure, this perception does not significantly impact the Court's institutional legitimacy (Gibson, 1989; Mondak, 1993). Other scholars have contended that it is in fact perceptions of procedural fairness which largely account for the diffuse support the citizenry affords to the Court (Tyler & Rasinski, 1991). Gibson responded to such claims by suggesting the exact opposite, that it is diffuse support which motivates citizens to evaluate the procedures of the Court as fair (Gibson, 1991). However, this chicken-egg argument matters little to our current analysis, as we are satisfied to simply note there is an interaction between generalized support of an institution and perceptions of the way it operates.

Scholars have also applied the notion of diffuse support to public evaluations of Congress. Noting the slide throughout the 1970's in public ratings of Congress relative to the Presidency and the Supreme Court,

Dennis (1981, p. 347) concluded that decline in specific support for Congress had "spilled over to more basic orientations toward the institution as well." Patterson and Caldeira (1990) observed a continuation of this downward trend throughout the 1980's using two indicators of institutional support: evaluation of congressional performance and confidence in congressional leaders. Patterson and Caldeira noted that presidential popularity and negative media reports of congressional activity play important roles in shaping perceptions of performance while the condition of the economy and degree of cooperation between presidents and Congresses of the same party have the most significant effect on confidence in legislative leaders. Other scholars have investigated the role of the "expectation-perception discrepancy" between the characteristics that citizens believe their representatives and legislatures should have and the ones they exhibit (e.g., Kimball & Patterson, 1997). Clearly, partisan identity, current issues, personal and professional qualities of specific legislators, and media treatment affect the specific support that citizens express toward Congress, but the general decline in Congress' rating observed throughout the 1980's reinforces Dennis' belief that the institutional legitimacy of Congress had been compromised as well.

Legitimacy expressed in terms of diffuse support is a rather novel concept as applied to bureaucratic agencies. Abundant research exists on citizens' views toward bureaucratic entities, and, like the research on judicial institutions, there is considerable scholarship on how bureaucracies operate and whether such modes of operation are seen as laudable. Characteristics typically examined include responsiveness (Saltzstein, 1992), efficiency, and fairness (Serra, 1995). Similar to the studies on Congress, public administration scholars have explored the link between media coverage of particular bureaucratic programs and public evaluations of agency performance (Rogers-Dillon & Skrentny, 1999). One interesting study did attempt to explain the public's dissatisfaction toward bureaucracy in general as a function of citizens holding multiple conflicting values which they structure into unrealistic expectations of bureaucratic performance (Alvarez & Brehm, 1998). Still, overall our treatment of the bureaucracy as an institution in and of itself, independently assessable in terms of diffuse support, is rather unique.

Data

Data for this research note are taken from a recent survey of students enrolled in political science courses at the University of Tennessee. Between February 19 and March 9, 2007, instructors in twenty-two undergraduate and graduate courses in political science distributed questionnaires to their students.[1] Six hundred and thirty (630) students participated in the survey. Table 1 contains information about the demographics of the 630 respondents. The sample is reasonably diverse (ample variation as to political party identification and ideological orientation) and politically attentive.

Obviously, our sample is not representative of the adult population of the United States, nor is it in all respects (most notably, racial composition) typical of students in political science courses at colleges and universities around the country. Our eventual goal is to replicate this survey using a national sample of the adult population. Thus, we wish to characterize the findings of the present study as preliminary and exploratory.

1. Students were informed that participation in the survey was voluntary, anonymous, and uncompensated. Because students often take multiple political science courses in one semester, they were instructed to fill out the questionnaire only once.

TABLE 1
Demographics of Respondents

Gender	
Male	53%
Female	45%
Unknown	2%
Race	
White	84%
African-American	7%
Other	9%
Level of Student	
Undergraduate	93%
Graduate Student	7%
Major	
Political Science	40%
Other	60%

Political Party Identification	
Democrat	31%
Independent	19%
Republican	36%
Other/Not Sure	14%
Ideological Orientation	
Liberal	31%
Moderate	33%
Conservative	33%
Other/Not Sure	3%
Political Attentiveness	
Registered to vote	88%
Voted in 2006	62%
Perceive self as politically engaged	60%

Results

In the survey we asked students to rate each of a series of governmental institutions on the following scale: poor (1); fair (2); good (3); excellent (4).[2] We then calculated a mean score for each of the institutions, as displayed in Table 2. As we expected, the U.S. Supreme Court received the highest mean rating. Not surprisingly, respondents afforded "bureaucracies" the lowest ratings. Interestingly, all judicial institutions scored higher than the other governmental institutions. Judicial institutions received an average rating of 2.7, whereas nonjudicial institutions were given an average rating of 2.48. While the difference is not staggering, it is statistically and, we think, substantively significant.[3]

2. In order to calculate means, "not sure" responses were omitted from the analysis.
3. A series of one-sample T-tests determined that the mean performance rating for each of the judicial institutions was significantly higher than the mean rating for the nonjudicial institutions. Likewise, the mean performance rating for each of the nonjudicial institutions was significantly lower than the mean rating for the judicial institutions.

TABLE 2
Mean Ratings of Institutions

Type of Institution	Specific Institution	Mean Rating	Mean by Type
Judicial	The U.S. Supreme Court	2.83	2.70
	The federal courts generally	2.71	
	The Tennessee Supreme Court	2.69	
	Tennessee state courts in general	2.56	
Nonjudicial	Tennessee state government in general	2.55	2.48
	The Tennessee General Assembly	2.53	
	The federal government in general	2.51	
	The U.S. Congress	2.45	
	The Tennessee state bureaucracy	2.42	
	Local government in general	2.41	
	The federal bureaucracy	2.32	

We know from the political science literature (e.g., Murphy, Tanenhaus & Kastner, 1973) and from numerous public opinion polls reported in the media that attitudes toward governmental institutions vary significantly by party identification and ideology. How one regards a particular institution depends, at least to some extent, on which party controls the institution and how citizens ideologically characterize the institution's performance. **Table 3** shows only slight differences across political party categories for both judicial and nonjudicial institutions. More in line with our argument here is that Democrats, Independents, and Republicans are consistent in rating judicial institutions higher than nonjudicial ones. Democratic respondents give a much higher rating to the U.S. Supreme Court than they do to Congress, even though conservatives ostensibly control the Supreme Court and Democrats control both houses of Congress.

TABLE 3
Mean Institutional Ratings by Party Identification

	Democrats	Independents	Republicans
The U.S. Supreme Court	2.81	2.77	2.90
The federal courts in general	2.69	2.60	2.75
The Tennessee Supreme Court	2.59	2.71	2.78
Tennessee state courts in general	2.47	2.55	2.65
Average for Judicial Institutions	2.64	2.66	2.77
Tennessee state government in general	2.46	2.50	2.69
The Tennessee General Assembly	2.43	2.47	2.68
The federal government in general	2.33	2.42	2.73
The U.S. Congress	2.45	2.26	2.53
The Tennessee state bureaucracy	2.40	2.38	2.50
Local government in general	2.32	2.33	2.55
The federal bureaucracy	2.29	2.26	2.46
Average for Nonjudicial Institutions	2.38	2.37	2.59

Table 4 compares the mean institutional ratings across self-identified ideological types. The differences of means across ideological types are far exceeded by the different ratings afforded judicial and nonjudicial institutions within each ideological type. Ideology is certainly related to the evaluation of institutions, but much more pronounced is the fact that judicial institutions are more highly rated regardless of ideological differences. In other words, respondents are employing other factors beyond ideology and partisanship in forming evaluations of governmental institutions.

TABLE 4
Mean Institutional Ratings by Ideological Self-Identification

	Liberals	Moderates	Conservatives
The U.S. Supreme Court	2.75	2.92	2.85
The federal courts generally	2.70	2.76	2.70
The Tennessee Supreme Court	2.62	2.70	2.76
Tennessee state courts in general	2.46	2.60	2.62
Average for Judicial Institutions	2.63	2.75	2.73
Tennessee state government in general	2.42	2.52	2.71
The Tennessee General Assembly	2.43	2.44	2.72
The federal government in general	2.34	2.51	2.71
The U.S. Congress	2.40	2.53	2.45
The Tennessee state bureaucracy	2.35	2.45	2.48
Local government in general	2.37	2.35	2.54
The federal bureaucracy	2.25	2.36	2.38
Average for Nonjudicial Institutions	2.37	2.45	2.57

To probe more deeply into the determinants of institutional evaluation, we asked respondents to compare courts, legislatures, and administrative agencies on a set of criteria that pertain more to how institutions operate than to the kinds of policies they produce (see **Table 5**). As we expected, respondents viewed courts as more likely to be concerned with justice, knowledgeable about the law, rational, thoughtful, fair, dignified, honest, deserving of respect, open in their proceedings, principled, concerned about people's rights, and trustworthy. Respondents viewed legislatures as more political, influenced by campaign contributions, subject to political pressure, dominated by special interests, and corrupt. However, on the positive side of the ledger, respondents viewed legislatures as representative of the people, responsive to public opinion, and understanding the country's problems. Somewhat paradoxically, respondents viewed administrative agencies as both accessible and secretive.

Clearly, our respondents manifested more favorable attitudes of courts than of nonjudicial institutions. Perhaps, as some scholars have suggested, our respondents have internalized the mythology traditionally propagated by the courts (see, e.g., Casey, 1974; Fiscus, 1991; Jaros & Roper, 1980; Lerner, 1937; Levinson, 1980; Mason, 1962; Miller, 1965; Scheb & Lyons, 2000; Stumpf, 1966). Despite the efforts of critics to demythologize the courts, the political culture continues to portray courts as nonpolitical entities whose decisions are based more on reason than ideology or interest.

Our respondents showed mixed feelings about legislatures. On the one hand, respondents viewed legislatures as responsive to public opinion, representative of the people, and capable of understanding the country's problems. On the other hand, respondents viewed legislatures as subject to political pressure, dominated by special interests, influenced by campaign contributions, and even corrupt. The mass media's depiction of legislatures as untidy and conflicted probably diminishes the public image of those institutions (Kirbel, 1995, Patterson & Caldeira, 1990). Our data suggest the need for fundamental reforms in legislative practice in order to engender popular respect and trust

TABLE 5
Comparisons of Courts, Legislatures and Administrative Agencies on Specific Criteria

"Thinking generally about courts of law, legislatures, and administrative agencies at all levels of government, which tend to be most. . . ?"	Courts	Legislatures	Admin. Agencies	Not Sure
Concerned about justice	76.5%	5.9%	4.9%	12.7%
Knowledgeable about the law	71.6%	14.4%	3.7%	10.3%
Rational in making decisions	59.8%	12.2%	10.3%	17.6%
Thoughtful in making decisions	58.4%	10.3%	8.9%	22.4%
Fair	55.7%	10.6%	9.2%	24.4%
Dignified	54.8%	14.0%	6.5%	24.8%
Honest	54.6%	6.2%	7.1%	32.1%
Deserving of respect	54.4%	10.8%	8.1%	26.7%
Open in their proceedings	51.9%	19.8%	6.7%	21.6%
Principled	51.1%	11.3%	11.9%	25.7%
Trustworthy	45.2%	7.6%	6.7%	40.5%
Concerned about people's rights	38.1%	29.8%	15.9%	16.2%
Political	5.4%	72.5%	10.6%	11.4%
Influenced by campaign contributions	1.7%	68.3%	18.3%	11.7%
Subject to political pressure	6.8%	61.6%	20.0%	11.6%
Representative of the people	6.3%	52.1%	17.8%	23.8%
Dominated by special interests	3.2%	51.6%	33.5%	11.7%
Responsive to public opinion	4.4%	49.8%	20.2%	25.6%
Corrupt	9.8%	46.8%	23.8%	19.5%
Understanding of the problems facing the country	8.3%	39.5%	22.7%	29.5%
Accessible to the public	27.8%	12.4%	42.1%	17.8%
Secretive	12.1%	28.7%	39.8%	19.4%
Liberal	16.2%	19.5%	18.1%	46.2%
Protective of minorities	28.4%	17.8%	22.4%	31.4%

In explaining the relatively low ratings afforded bureaucratic agencies (least likely to be seen as concerned about justice and people's rights; least likely to be perceived as rational, thoughtful, fair, dignified, trustworthy and deserving of respect), we would argue that they do not have the benefit of tapping into the political culture in the same way that courts and legislatures do. Courts cloak themselves in the mantle of the law. Similary, legislatures derive their legitimacy from their popular election. Administrative agencies rely on their presumed expertise and demonstrated ability to solve problems. In an age beset by myriad problems over which government seems to have little control, bureaucracies struggle to develop and maintain a favorable image in the public mind.

Conclusions

The notion of institutional legitimacy and diffuse support has a long and rich treatment in political science when considering public evaluations of governmental entities. Like numerous other studies, our survey findings indicate that citizens view the performance of the judicial branch as superior to that of the legislative branch and bureaucracy at the federal, state, and local levels. Especially considering the fact that our respondents were college students, arguably less likely than older adult respondents to experience face-to-face encounters with these institutions or to be engaged in tracking the policies produced by these institutions, the notion of diffuse support seems like a reasonable way to explain their evaluations of these institutions. It is the generalized perceptions that college students have in regard to the judicial branch that most likely explain the higher evaluations they give it relative to the other governmental institutions in our survey. This reinforces the notion that specific policy outcomes and individual ideology have less of a role in determining public support for institutions than their inherent qualities and characteristics. These qualities endow governmental branches with distinct institutional identities which citizens consider when expressing institutional favor or disapproval.

We contend that prevailing political culture shapes citizens' impressions of governmental institutions more than direct experience. Political culture is transmitted through the agents of political socialization like the family, the school, and the mass media. Political culture evolves slowly over time and is not easy to change. Legislators, judges, and agency officials need to understand the political culture and how the public regards their institutions. Such an understanding will facilitate communication with the public and perhaps positively impact compliance with controversial policies. ◆

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Recasting the Long War as a Joint Sino-American Venture

Thomas P.M. Barnett

In this so-called long war against the global jihadist movement, the Bush administration's greatest failure has been its lack of strategic imagination. It has added the right enemies to our to-do list, but failed to enlist the necessary new allies, giving our people the misperception that it's America against the world.

This need not be the case. Our natural allies are now located on the frontiers of globalization, or among the three billion-plus new capitalists who joined global markets over the last generation, chiefly among them the Chinese.

The integrating core of globalization—namely the old West plus the emerging markets of the East and South—have effectively outsourced the global policing function to the United States by refusing to balance our immense warfighting and power projection capabilities with their own. Instead, Western Europe focuses on economically integrating the former Soviet bloc, while rising titans like China and India, for reasons of rising energy requirements, focus overwhelmingly on integrating—on relatively narrow terms—resource providers located in those regions least connected to the global economy, or what I call globalization's non-integrating gap (e.g., the Caribbean rim, Africa, the Middle East, Central Asia, and the southeast Asian littoral states).

Not surprisingly, the Pentagon's new map in this long war corresponds greatly to those gap regions, for there we find the preponderance of "moderate" dictators, rogue regimes, and failed states, all of whom either attract the attention of transnational terrorists or support their activities for their own nefarious reasons. Viewed in this light, our victory is logically defined as the successful building out of globalization's core and the simultaneous shrinking—or successful economic integration—of those gap regions. As we've seen in Afghanistan and Iraq, this is no mean task and one that generates significant labor requirements.

So I say, locate the labor where the problem is.

A New Strategic Value Proposition

America has the wherewithal to wage any conventional wars necessary to defeat traditionally arrayed enemies (i.e., militaries). But in today's "flat world" competitive landscape, war's just the first-stage defensive acquisition. Real stability comes only after the second-stage postwar merger that extends globalization's broadband connectivity to the previously disenfranchised masses and—yes, Virginia—exposes all that cheap labor to "exploitation" by outside capital that typically pays significantly higher wages than the local economy can muster.

Let me give you my definition of the value proposition here and see if it doesn't make sense.

America's got a first-half offering without peer: a Leviathan with an unparalleled capacity for war-making and the unspoken power of deciding when other states can make war themselves. What we lack is a credible second-half offering, or what I've dubbed a "system administrator" force capable of winning the peace through effective stabilization and reconstruction operations. Ultimately, this force needs to be more civilian than uniformed military, and fueled more by private sector investment than public sector aid. It also can't be an American-only operation. The Bush administration's big mistake in Iraq was telling allies, "If you're not tough enough to show up for the war, don't show up for the peace, and forget about any contracts!"

Based on our efforts to date in this long war, America currently fields a first-half team in a league that insists on keeping score until the end of the game. We lost less than 150 personnel in the Iraq "war" (major

combat operations). We've lost more than 2,000 in the "peace" (postwar) that hasn't quite followed.

So yeah, it matters.

Right now, our enemies in this long war field a better, more capable version of the sysadmin force than we do. Don't believe me? Then you haven't been paying attention to new entrants to the market like Hamas and Hezbollah, two tribe-building enterprises that excel at the second half while not even trying to compete in the first half, as Israel recently discovered in Lebanon and the West Bank to its growing regret.

So if the gap's new entrants to the postwar market should be sizing our sysadmin force (just like the Soviets once sized our Leviathan force during the Cold War), it seems clear who should be increasingly populating the core's second-half team today: new entrants to globalization's "systems integration" market such as China and India.

Think about that for a minute. Stability and reconstruction operations associated with postwar and post-disaster environments require lots of bodies, both in terms of uniformed boots on the ground and relatively cheap labor to lay down all that necessary infrastructure—both hard (physical) and soft (institutional). China and India both have million-man armies, as well as a long-demonstrated willingness to send their best and brightest (along with their most desperate) civilians the world over in search of economic opportunity (e.g., "non-resident Indians" are outnumbered only by the multitude of "overseas Chinese").

More to the point, the best nation-building brand out there right now is the Chinese model. I know, I know, it doesn't meet our threshold definitions of democracy and human rights (not to mention coming nowhere near our EPA standards), but it sure as hell beats America's post-Cold War product line of Somalia, Haiti, Afghanistan and Iraq. Let's be honest: China's leveraged buyouts, as mercantilist as they are, beat our hostile takeovers—hands down.

And that just tells you how bad America's military intervention "brand" has become. Emerging from World War II, the world believed that an American invasion was a fundamentally good thing, or something that got you tons of aid and propelled you to the top of the pile (e.g., West Germany, Japan, South Korea). Back then there was no shortage of "mice" that wanted to "roar" for our attention, but somewhere along the way, probably thanks to the influence of nuclear weapons on our military strategy, we lost that second-half skill set, probably because it seemed pointless in a world perverted by the looming threat of mutually-assured destruction. So, starting with Vietnam, where we first displayed our sad combination of increasing ineptitude at, and discomfort with, the second-half game, our brand has suffered a precipitous decline.

So why not turn to the original market-maker in the field of "revolutionary war," otherwise known as the People's Republic of China? If we face a future of insurgents and what the our military calls "fourth-generation war" (in which our enemies seek to deflate our will rather than defeat our forces), why not ally ourselves with the best counter-insurgency model operating in those gap regions today, one that effectively—and rather preemptively—woos both dictators and failed states alike?

Put another way, you can invade the country and then start up your counter-insurgency/reconstruction ops (the American route), or maybe you might just co-opt the major players pre-conflict with investment offers they can't refuse (the Chinese route). So maybe it's not always the case that if you want it bad, you get it bad.

Don't get me wrong. I'm not advocating America continues its whack-a-mole approach to regime-toppling interventions inside the gap, only to turn over the aftermarket opportunities to the Chinese . . . uh . . . actually, I'm coming uncomfortably close to saying just that. I just believe that if we combined our chocolate (military interventions with a moral compass) with China's peanut butter (economic interventions with a practical mindset), we might actually come up with a whole superpower, or basically a joint offering that finally covers the market—as in, defeats our political enemies while connecting the economically disenfranchised.

I'm asking you to come to the inescapable conclusion that America under the Bush-Cheney management team has become an un-sellable global brand in a market (modern globalization) that we made. That's just wrong.

It's wrong because it gets our people needlessly killed and because our interventions end up leaving the targeted state more disconnected from globalization than we found it (or worse, increasing its negative connectivity in the form of criminal and terrorist ties), meaning we're not making the world a better place and we're discrediting ourselves in the process.

So I'm asking you to invest in something better, or what I think will truly answer the mail in this long war—a full-service superpower that can wage both war and peace effectively. Combine the United States, a seemingly unprincipled Leviathan willing to invade anywhere inside the gap, with China, a seemingly unprincipled sysadmin willing to invest anywhere inside the gap, and I believe you're looking at a superpower built whole, a long war legitimately won, and a globalization made truly global.

Now let me take you through the prospectus.

Less Clausewitz, More Sun Tzu

We know full well that America can defeat any traditionally arrayed opponent in major combat operations, known as "phase 3" in Pentagon parlance. But both Afghanistan and Iraq show that we're simply not up to snuff in "phase 4" operations, otherwise known as the postwar. As we're not credible in the postwar, our enemies have simply ceased fighting us in the war, knowing that a persistent postwar insurgency can defeat an impatient superpower. If your enemy's goal is simply to kill 3 or 4 of your personnel a day and he's willing to throw virtually unlimited labor at that goal, you're going to lose over the long haul unless you figure out how to deny him ready access to his labor pool. That means jobs are our exit strategy.

Run into this savvy fourth-generation-warfare (4GW) competitor enough times and the American public will inevitably tire of engaging in any major combat operations, sensing a pointlessly ineffective postwar outcome. When that happens, our enemies in this long war have achieved an effective lock out, fencing off the roughly two billion people in these gap regions for their version of fundamentalist isolation.

Get good at phase 4 operations, however, and not only are your war threats made credible, but likewise your up-front offers of—for lack of a better phrase—pre-canned bankruptcies for failing regimes. I mean, why not make a pre-emptive bid instead of launching a pre-emptive war? By doing so, we turn on its head Karl von Clausewitz's famous definition of war as " . . . continuation of politics by other means."

Inside the Pentagon, strategists describe this goal as getting so adept at phase 4 operations that you can wage them up front, in the pre-crisis period known as "phase 0." At this point, you're in Sun Tzu's preferred venue, and your battles are won long before shots are fired. You're basically the peacekeeper and infrastructure builder who shows up before the crises boil over, effectively keeping the situation just cool enough to avoid a major military intervention. Think of it as limited-liability nation building.

Imagine the Iraq scenario this way: according to insider accounts, the Arab League convinced Saddam Hussein to agree to go into exile and avert a war months before the U.S.-led invasion occurred. In the end, Arab leaders abandoned the plan because of disputes among themselves over how it would have played out. No imagination required there: the region's leaders were of many minds regarding the possibility of a real "cake walk" for the Americans. But consider this possibility: what if, at the right moment in that negotiation, a proposal is made for a consortium of Chinese, Indian and Russian elements (both governmental and private-sector) to run the postwar reconstruction? Imagine how the zero-sum sheen is rubbed off the potential American-dominated postwar occupation.

Then consider how the Chinese could have conducted the rebuilding of Iraq's shattered infrastructure—on time and under budget.

And then consider how President Bush's "big bang" strategy (i.e., making post-Saddam Iraq a shining example of potential reform in the region) might have unfolded differently, primarily because popular expectations—both here and in Iraq—would have shifted from instant democracy to rapid reconnection to the global economy.

Seriously, do you think we'd have the same deprivations and lack of economic activity that fuel sectarian violence in Iraq today if we had picked the Chinese over the Coalition Provisional Authority? Or let me put it this way: could the Chinese have done any worse?

Do you find such a scenario implausible? Then you haven't been paying attention to Africa recently. Anyone's who done any business or peacekeeping in Africa in the past decade will tell you that the "China LLC" (with an emphasis on "limited") is already up and running across most of the continent. For example, China recently became the 13th-largest provider of peacekeeping troops across gap regions, with a concentration in Africa (Congo, Liberia, Sudan) and a nascent portfolio in the Middle East (Lebanon) and the Caribbean (Haiti).

Chinese trade and aid throughout Africa has risen dramatically in recent years, to include a sandals-on-the-ground presence of 80,000 nationals. China's goods are in every market, its vehicles ply every road (many of which are laid with Chinese funds and laborers), and its logistical and information networks are sprouting up everywhere valuable raw materials are found—especially oil.

Beijing recently hosted an unprecedented summit of 30 African leaders and guess what topped the agenda? It surely wasn't the Bush administration's soda straw view of globalization, otherwise known as the "war on terror." Instead, the summit focused on debt relief, human resource development and training, investment and aid, and reduced trade barriers. Just survey America's strategic debates concerning Africa today ("Do we intervene in Darfur with troops?" "Go back to Somalia to deal with the Islamists?" "Set up an Africa Command?"), and it seems clear: we're stuck in a phase-3, Clausewitzian mindset while China's winning early-stage, phase-0 contracts (and allies) in a way Sun Tzu would readily approve.

Whether we care to admit it or not, China effectively limits America's strategic liability across Africa already. Sudan is a good example: many in the West want to criticize China's large-scale investments in the nation's infrastructure and oil industry. But quite frankly, absent the West's interest in providing significant numbers of peacekeepers for Darfur, what China does in Sudan with its ongoing investments is limit our potential strategic liability.

In that forest, large branches may fall, but not the entire tree. So long as the latter does not occur, America hears nothing.

Cynical? Hell yes. But if we're not going to beat 'em, please don't deny we're implicitly joining them in this liability-limiting endeavor. As the world's sole military superpower, America is the silent partner in every non-intervention the global community launches

So No Rest For the Weary Leviathan

Let's be honest about the capabilities at hand for solving Africa's endemic conflicts (and they are so many). NATO (the Europeans) have basically "been there, done that" decades ago and exhibit little desire to return. Meanwhile, the African Union, the continent's putative peacekeeping arm, is essentially the UN without the swagger (I know, hard to imagine). When the AU hit the ground in Darfur, for example, they quickly settled into a passive observation role, basically documenting the ongoing atrocities and little else (they shoot

photos, don't they?).

America needs to get real with itself. Africa is not ours and ours alone to ignore strategically, and it's got to be so much more than just the experimental playground for Bono and the "two Bills" (Gates, Clinton). Tied down as we are militarily in the Persian Gulf, the U.S. shouldn't look a gift horse in the mouth, because China's effectively "prepping the battlefield" for us in Africa, and that's where this fight heads next.

As the U.S. and its Western allies squeeze the balloon of the global jihadist movement currently centered in the Middle East, that balloon can expand in two directions: north into Central Asia and south into sub-Saharan Africa. This fight won't go north simply because that region is surrounded by interested powers (e.g., Russia, Turkey, India, China) willing to do whatever killing is required to stop the spread of Al Qaeda's influence—and yes, that includes Shiite Iran, no friend to the exclusively Sunni-derived radical Salafi movement currently fronted by Bin Laden.

So if it can't go north, this fight's heading south.

Frankly, it's the combination of that inevitability plus China's rising influence on the continent that drives the Pentagon to stand up an Africa Command (already in prototype in European Command's Joint Task Force-Horn of Africa). But here we risk repeating the Bush administration's mistake of adding new enemies but no new allies. Instead of viewing China's growing presence as a strategic complication, America needs to recognize it as a natural partnering opportunity.

Africa is enjoying an economic upswing, thanks in no small part to China's rising resource draw. The continent's business climate is improving dramatically, and about half of the world's top-20 fastest growing economies can be found here. Hell, when American hedge funds start moving in, you know something's brewing.

America has the sad tendency for viewing Africa primarily as an aid sinkhole, whereas maturing emerging markets like China view it as a logical target for future expansion. Yes, Beijing's resource requirements drive everything for now, but think ahead to when China's "inexhaustible" cheap labor supply dwindles due to higher production costs and a burgeoning middle class more focused on consumerism than savings. To whom does China outsource the low-end jobs while it scrambles up the production ladder? Clearly, Beijing will divert as many jobs as possible to China's underdeveloped interior, and just enough to its neighbors to keep the regional peace, but eventually a good portion will flow to Africa, in large part to balance the very real imbalances created to date by China's mercantilist trade profile.

There are plenty of China hawks in the Pentagon who are dead certain we're headed for some military showdown with Beijing over Taiwan. But more of Wall Street is coming to the conclusion that our real competition with China is all about who makes the most markets in globalization's gap regions. That makes Africa the logical ground zero in both the long war and this ever "flattening" global competitive landscape.

But you know what, this is exactly the kind of race America needs to be running.

Racing to the Bottom of the Pyramid

China today is not the market it was as recently as five years ago, when basically any foreign company and investment were welcomed with open arms, giving foreign multinationals control over roughly 60 percent of the country's current exports. Today's China sits atop a huge pile of domestic savings and approximately one trillion in U.S. reserve currency, giving it a confidence far distant from the fears barely suppressed during the Asian flu of the late 1990s. One way that confidence is expressed is increased developmental aid to trade partners, largely focused on accessing their raw materials.

As China becomes more outgoing in its foreign policy, however, its economic focus turns inward to a host of structural problems: its rickety financial sector, the imbalance between the booming coast and the dread-

fully impoverished interior, and the rapidly aging population (no country in human history has ever aged as quickly as China will over the next three decades). Toss in the greatest migration in human history (internally, from rural to urban areas), and we're talking about hundreds of millions of new consumers rapidly surfacing in China's burgeoning middle class.

Thus, what was primarily an investment dynamic by which foreign companies rented China's cheap labor for export creation now rapidly shifts into strategic alliances with rising domestic companies that Beijing not only positions to dominate the growing internal market but likewise plans on growing into successful global brands. This new inside-out growth strategy (i.e., domestic dominance leading to global dominance) is interpreted by many Western investors as a "nationalist backlash," but as long-time China watcher Harry Hardin argued recently in the Wall Street Journal, this is a "marginal adjustment to, rather than a fundamental repudiation of, Beijing's broader embrace of globalization."

In short, China's just wants to elevate its game.

The car industry is a good example. Western firms jumped into China years ago primarily to access the cheap labor on auto parts. But now, as China's car market explodes (it's already roughly the equivalent of the U.S. and European markets and soon to become the world's largest domestic market), the strategy of such global giants as GM, Ford, Honda, and Volkswagen shifts from accessing labor to accessing customers. As Bill Ford Jr. recently told the Wall Street Journal, "We're barely scratching the surface in China."

There's been a lot of hyperbole recently about how quickly Chinese automobile manufacturers can wedge themselves into the U.S. market as the third coming of Toyota and the second coming of Hyundai. But the real export opportunities in joint ventures with rising Chinese firms (e.g., Geely, Chery, Great Wall, SAIC) will appear first in other emerging markets and developing economies. It is in these lower-end markets that companies tap into what University of Michigan economist C.K. Prahalad dubs "the power at the bottom of the pyramid."

That dynamic is important to consider as we contemplate the long-term integration of such gap regions as the Middle East, Africa, Latin America, and southeast Asia, especially as we retool our approach to postwar and post-disaster stability and reconstruction operations.

The problem is, when the rich, know-it-all Americans show up on the post-whatever scene, our tendency is to cost everything out at Six Sigma prices, when in reality, what's typically appropriate is something on par with One or Two Sigma outcomes. We go for the grand and complex when the simpler and more robust usually works better in such austere environments. So it's wireless, not landlines. It's cell phones, not laptops.

Pricing out Africa's integration at American prices makes no sense whatsoever. Africa is going to be a knock-off of India and China, which in turn can be considered knock-offs of Singapore and South Korea, which in turn can be considered knock-offs of Japan, Asia's original knock-off of America. Think of it as a realistic "six degrees of integration."

So gaining access to markets like China and India isn't just an end in itself (i.e., cheap labor), even when investments subsequently penetrate the domestic market's expanding opportunities. In the end, Western foreign direct investment into these new pillars of globalization's core serves as a gateway to accessing the emerging-markets-after-next, or that next wave of infrastructure development found inside the very gap regions where this long war against radical extremism plays itself out.

Taken as a whole, the infrastructure building opportunities inside emerging markets—both existing and future—over the next three decades is considered by developmental experts as unprecedented in size. Asif Shaikh, CEO of International Resources Group, an international professional services firm specializing in developing markets, estimates that six trillion dollars of infrastructure will be built in the energy sector alone,

with an additional four trillion dollars spent on water. Much of this work will occur in the twin pillars of China and India, so expect a roll-up of Western and local firms to create the multinational behemoths capable of handling this enormous flow of construction.

Then imagine what these resulting giants will be capable of accomplishing in postwar and post-disaster reconstruction environments in Africa and other gap regions.

The strategic importance of allying with Chinese and Indian firms is that they re-acquaint us with the twin realities of selling successfully to modest-wealth classes and building markets on globalization's rough-and-ready frontiers, two skill sets many Western firms have essentially lost as our economies moved far away from such experiences. America's last frontier, for example, closed over a century ago.

But it's worth recollecting that market-making, frontier-integrating period known as the "settling of the American West," because it reminds us of the intensely close relationship that once existed between our military and the private sector, something that was lost during the Cold War period, except in the rather closed club of the military-industrial complex. Now, as we look to postwar experiences in places like Afghanistan and Iraq, where new contractors galore have entered the nation-building market, it's clear that the military-market nexus has once again become the centerpiece of our national security strategy—that is, if we're serious about winning the long war.

Let me tell you, the Chinese are just as serious on this score as we are. To its credit, the Bush administration has spent a lot of time encouraging Beijing to become a "responsible stakeholder." What the White House hasn't done effectively is define—in a sufficiently expansive fashion—which stakes America truly shares with China.

An Offer They—and We—Can't Refuse

Britain was smart enough at the start of the 20th century to hitch itself to the rising star in the West called America. That strategic mentoring role and resulting "special relationship" allowed the Brits to punch above their weight through three world wars (two hot and one cold). America faces a similar decision on China today: do we mentor Beijing into the halls of power or do we succumb to the realists' predictions that war with the Middle Kingdom is inevitable in this "Pacific century"?

Britain went to war twice with fellow first-tier great power Germany in the first half of the 20th century and both were radically reduced to second-tier powers as a result, so I guess it all depends on how long America wants to remain a first-tier superpower. If the world isn't big enough for a second one, then we've got a real problem. But is the world is ready for a superpower partnership . . . ?

The fact is, China's already our silent partner in virtually every crisis spot around the globe. Want to fix Sudan? Better involve China. Want to tame Chavez? Better involve China. Want to economically isolate WMD-seeking Iran? Forget about it, because China and India (not to mention far-more-reliant-on-imports-Japan) have already made that call on both oil and gas. But help on taming Tehran? Under the right conditions, better involve China.

Then there's Kim Jong Il.

It's no secret that with the tie-down of American forces in Iraq we can't do much of anything but bomb North Korea into the stone age, which—of course—would instantly trigger that which Beijing fears most: the mass flow of refugees north. So, in so many words (okay, just hearing Bush say the word "diplomacy" is enough), the Bush-Cheney team has let it be known that it would be fine by them if somebody rid them of this horrible man. You know, next time Kim's train simply comes back empty.

Actually, the Chinese have studied the KGB-engineered fall of Nicolae Ceaucescu in Romania, going so far as to interview senior players there, so the concept of forcing Kim out from within is no joke. After all, Lil'

Kim runs a serious kleptocracy, and criminals can be flipped.

Then there's what would be waiting on the far side of a united Korea: the makings of an East Asian NATO that rules out great power war on the continent. Simply put, it's the biggest missing link in America's current long war strategy, trapping—as it does—far too many of our military assets in a Cold War-era strategic posture.

But get an East Asian NATO set up and two things happen: 1) it frees up U.S. troops stationed there; and 2) we're finally able to seriously tap the region's trio of great powers (China, Japan, Korea) for military help in places where it's more needed, like the Middle East and Africa. Finally, it's important because, historically speaking, it's not a good idea to have both Japan and China powerful at the same time without some sort of arrangement in place.

So what's the state of our military-to-military relationship with China under the Bush administration?

In a word, guarded.

The Bush neocons came into power in 2001 obviously gunning for China. Remember the EP-3 spy plane incident off Hainan? Well, if Cheney and Rumsfeld hadn't been interrupted by 9/11, that preview of the coming distractions would have been amazingly prescient.

Following 9/11, though, China fell off the Pentagon's radar until . . . that is, when the most recent long-range planning cycle (2005 Quadrennial Defense Review) kicked into gear and many of the defense-industrial complex's pet weapons systems and hugely expensive platforms were threatened by the ongoing operational costs (re: Iraq) of this long war. At that point, the China hawks went into overdrive and have stayed at that level since, cranking out warning after warning about China's "huge" military build-up and how it threatens Taiwan and the rest of Asia.

How huge is that build-up? The highest estimates say that in twenty years China might be spending roughly half as much on its military as the U.S. spends on its military today! I don't know about you, but I think our lead is safe for now. Plus, quite frankly, 85 percent of China's arms purchases are from the Russians, so seriously, how bad can that be? Or did I miss something about who lost the Cold War?

Ah, but plenty of security experts will reveal—only on background, of course—that "if you only knew what I knew about Chinese attempts to [blank]," then you'd never even consider treating them as anything but globalization's fifth column, just waiting to spring up and disable our entire economy with their cyber-jujitsu!

I say, it's finally nice to have somebody surpass the Japanese and French in trying to steal our technology.

Seriously, every rising power in human history has sought to catch up to the leaders by engaging in persistent and pervasive economic espionage. America did it to the Europeans throughout most of the 19th century, begetting large portions of our industrial revolution in the process. Why should the Chinese be any different from the rest? The fact that they engage in such theft more over the Internet than the traditional route of sending their spies into our factories doesn't make them unique. It makes them up-to-date.

Given all the situations where we'd like China's help around the planet, the truly sad reality right now is that our military-to-military cooperation with the People's Liberation Army (PLA) remains embryonic at best. For example, just as Kim Jong Il was popping his first nuke last summer, the U.S. Navy held its first-ever ship training exercise with a single Chinese naval vessel off the coast of San Diego. Seventeen years after the Berlin Wall and Tiananmen and that's all we've managed.

Meanwhile, we'd love it if Beijing could somehow make Kim go away on its own, instantly shifting that security risk to China. I mean, talk about wanting to go all the way on the first date!

Outside of Asia, strategic risks are shifting against China, especially in the realm of energy security. Americans like to think we're dependent on foreign oil drawn from unstable regions, but truth be told, we're

not. Roughly 70 percent of our imported oil comes from the Western hemisphere and Europe/Russia, with only 30 percent drawn from Africa and the Middle East (15 percent each), so that gives us a 70/30 split between stable/unstable sources, and those percentages aren't predicted to change much in the future.

China, on the other hand, faces a riskier import profile over time. Today, China draws just over 40 percent of its imports from the less stable regions of Africa and the Middle East, but according to our Department of Energy, by 2030 that share will rise inexorably to almost 70 percent, making Beijing's stability profile the mirror image of our own.

So it was no surprise to hear China's top official on long-range energy planning recently propose that our two nations should come together to jointly explore, produce and—most importantly—protect energy sources in politically unstable regions.

You want China—as the Bush administration has long declared—to become a "responsible stakeholder" in global affairs? Well, Beijing just gave you a clear signal about which stakes matter most to China. Are we paying attention or just jerking knees?

When I go to Beijing and brief government and military long-range planners on these concepts, it's easy to get a lot of warm smiles in reply. Hell, I'm making it sound like America's got no choice but to partner with China all over these unstable regions. But you want to know how I quickly wipe smiles off those smug faces?

I tell them this: "For now, people inside the gap tend to equate globalization with Americanization, so we're the bad guys they take hostage and blow up in the name of Allah and drive out of their lands to achieve their dream of civilizational apartheid. But know this, globalization is increasingly taking on a distinctly Asian flavor, with China firmly in the front, giving it a new face. Faster than you realize, you'll see Chinese being taken hostage, Chinese being blown up, Chinese held up to the camera and having their heads cut off. And it'll all happen because the radicals and extremists and jihadists and terrorists will inevitably come to this conclusion: the best way to drive off globalization is to drive off those infidel Chinese!"

Works every time.

Why? It's one of the Chinese leadership's greatest fears. That's fundamentally why they keep such an amazingly low profile inside the gap despite the steep rise in their investments, peacekeeper deployments, and energy dependence. For now, America is the only place where fear of globalization equates to fear of China. But soon, that fear will spread to most of the planet, linking our two nations in the temptation common to all great powers: self-loathing.

Stuck in the Middle With Hu—For Now

The good news is, China's self-limiting lack of self-confidence is going away as Beijing's bosses experience a much anticipated generational shift from the so-called fourth generation (e.g., President Hu Jintao, Premier Wen Jiabao) to the far different fifth generation (the equivalent of our late Boomers, or roughly Barack Obama's cohort born in early 1960s—like me).

China's leadership generations go like this: Mao Zedong fronted the first generation of revolutionary giants (1949-1976), while the second (through the 1980s) was led by radical reformer Deng Xiaoping, who sent China down the path of markets and thus did more to shape our current world than any leader of the late 20th century. The third generation, helmed by Jiang Zemin, ruled China across the 1990s and right through 9/11. Jiang's was the first generation of leaders trained abroad, overwhelmingly in the Soviet Union—birthplace of socialism. This was crucial, because the technocratic tinge of that formative experience made Jiang's generation confident enough to extend Deng's reform movement further, creating the "China Inc." we know and fear today in global business.

The current leaders, known as the fourth generation, did not travel abroad for their education, trapped as they were in the nationwide insanity of Mao's Cultural Revolution in the late 1960s. The result? A careful bunch of homebodies whose foreign policy consists of the soothing slogans ("peacefully rising China," recently scaled back to "peacefully developing China" lest it seem too confrontational) and whose economic vision has turned increasingly inward to focus on the left-behind rural poor of the interior provinces.

So it's not too surprising that America hasn't gotten very far with Beijing recently in any seriously strategic dialogue: our neocons aren't asking and their fourth-generation leaders aren't listening. Toss in ever-paranoid Taiwan as the figurative third monkey holding his hands over his eyes (i.e., unable to see future integration with the mainland), and you've basically got the entire dysfunctional matched set.

But real change is just around the corner—and I'm not just talking about the 2008 American presidential election.

Next year the Chinese Communist Party will most likely pick from among the fifth generation pool the leaders who will assume the reins officially in 2012 but whose lengthy succession begins rolling out almost immediately. This generation may be known to many of you already, because whether you realize or not, you went to college with many of them in the late 70s and early 80s. So yeah, this crowd does get America. In fact, these guys get globalization better than our current leaders do, because China is so much closer—historically speaking—to the infrastructure build-out process associated with globalization's Borg-like integration wave.

What's so amazing about this next generation is how they look at the world: a Kantian naiveté bordering on Thomas Friedman ("Got McDonald's? You're in!"). But beyond that wide-eyed optimism there is a growing and rather steely awareness that, as Spiderman's uncle famously intoned, "with great power comes great responsibility." Having spent days in deep discussion with this crowd, I will tend you what impresses me most about them is their earnestness. They are perceptively shifting—echoing John F. Kennedy's generational call—from thinking about what the world owes China to what China owes the world.

There's not a moment to waste.

When I last sat down with PLA strategists, I told them their biggest challenge over the next decade or so is rebranding their military from "revolutionary warrior" to "globalization's security guard" in support of China's role as globalization's general contractor in the great build-out to come. This repositioning of China's global security profile must be approached carefully, setting up easy wins that mark the PLA as both competent in its execution and trustworthy in its presence—especially in partnership with U.S. military forces. A joint response to Asia's 2004 Christmas tsunamis would have been a good opportunity. It worked for the Indian Navy, but China's military was nowhere to be found.

Over time, the Pentagon and the PLA need to prove out this strategic alliance in a series of early-stage engagements—preferably in Africa—that demonstrate how market economies—both old and new—come together to shrink globalization's gap. Yes, I realize that many in my country consider the cultural and political gaps between America and China to be insurmountable in any time frame worth mentioning, but in my opinion, that Cold War mindset plays into the strategic goals of the global jihadist movement, which wants nothing more than to pit a rising East against an aging West with radical Islam as the great balancer.

I say we deny Osama that dream—as soon as possible.

Rehabilitating failed states is a labor-intensive process, because postwar and post-disaster environments—our most likely traction points—simply demand it. When you have a body requirement, you go to body shops, locating the labor where the problem is.

In the Cold War, our strategic triad consisted of missiles located on land, at sea and in the air. In the long war, many Pentagon planners have taken to describing America's new strategic triad as the Army, the Marines,

and Special Operations Command.

No argument there.

But what I'm telling you is that, on an international scale, we're looking at a strategic triad consisting of the United States, China, and India—the three million-man militaries out there today (once North Korea is liquidated). This is the sysadmin's strategic triad that, when backed up by half the world's economic power come 2026 (according to The Economist), makes the dream of shrinking globalization's gap entirely feasible.

But, as always, the way ahead is determined by will as much as by wealth, and here is where America's current leadership vacuum is so damaging. We're staring at two years of a badly wounded, lame duck presidency suffering the whims of a protectionist, know-nothing, Democrat-led Congress. So waiting on the politicians is not an option. President Hu Jintao's recent tour of America demonstrated this in spades: the deep warmth on the west coast segueing to the damp cool in the Bush White House.

That's why business leaders must play a leading role right now in transcending the lack of strategic imagination currently afflicting Washington, first and foremost by framing the subject of China in the already looming 2008 presidential race.

I know my argument will strike many as naïve, but I don't believe it's naïve to trust greed over political ideology, either in America or in China. I trust people to be exactly who they are, and I expect the Chinese to emain Chinese.

I also expect greed to drive much of our debates on China here in the States. On one side, we'll find protectionists and defense hawks offering all arguments imaginable as to China's "inevitable" threats and treachery. They will seek to make money off your fear—or, in the case of Lou Dobbs, just pump up his ratings. On the other side, we'll find corporations and investors offering every opposing argument imaginable as to China's "unlimited" potential and market. They will seek to make money off your hope—and your fondness for Wal-Mart's low prices.

But rest assured, both sides seek to make money off China's rise. It's just a question of who cleans up the most. My immediate goal is to see our Army and Marines get the funding they need to survive the challenges of this long war, and so long as China is held up as the holy grail of the "big war" crowd within the Pentagon, that shift in priorities—from smarter weapons to smarter soldiers—will not come about.

My long-term goal is to harness China's rise for something beyond the final assembly of our low-cost goods. I believe that something is to become the final assembler of low-cost countries, a market niche that sole military superpower America needs desperately filled right now.

America cannot deal with its strategic future until its leaders finally let go of its Cold War past. History will judge us all very harshly for wasting the strategic opportunity staring us in the face. ◆

A Contraction of Autonomy
Pregnant Women and Compelled Medical Treatment

Melissa C. Hunter

> *But there is a sphere of action in which society, as distinguished from the individual, has, if any, only an indirect interest: comprehending all that portion of a person's life and conduct which affects only himself, or if it also affects others, only with their free, voluntary, and undeceived consent and participation.*[1]

Introduction

Individual autonomy is one of the many rights and freedoms upon which this country was founded. It is well established that a patient has the right to refuse medical treatment, including treatment that is necessary to preserve life.[2] States are in conflict as to whether this right emanates from the Constitution, the common law right of informed consent, or a combination of both.[3] Regardless of its origins, in medical decisionmaking, the right to self-determination and individual autonomy is vital. Nonetheless, this right has never been regarded as absolute; courts have often compelled medical treatment when such treatment is necessary to protect society, as represented by the state. Typically, the state asserts four societal interests when attempting to override an individual's choice to refuse treatment: (1) the preservation of life, (2) the prevention of suicide, (3) the protection of third parties, and (4) the preservation of medical ethics.[4]

Pregnant women, as a class, experience a contraction of their right to refuse treatment when courts grant orders compelling medical treatment to preserve or protect an unborn child. The asserted state interest is the protection of the innocent third party, meaning protection of the fetus.[5] Typically, when a patient exercises his or her right to refuse medical treatment, there is a tension between individual autonomy and state interests. But when the patient is a pregnant woman, there are three competing interests: the pregnant woman, the unborn child, and society, as represented by the state.

This article addresses the unique dilemmas pregnant women present to the legal system when they refuse to consent to medical treatments that are deemed necessary or in the unborn children's interests. The first section outlines specific court responses to the legal issues that arise regarding compelled medical treatment for pregnant women. The second section summarizes the competing rights and interests represented by the pregnant woman, the unborn child, and the state. The third section discusses the specific underlying ratio-

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1. John Stuart Mill, On Liberty 15-16 (Currin V. Shields ed., Liberal Arts Press, Inc. 1956) (1859).
2. The American Medical Association defines life-sustaining treatment as "treatment that serves to prolong life without reversing the underlying medical condition . . . [which] may include, but is not limited to, mechanical ventilation, renal dialysis, chemotherapy, antibiotics, and artificial nutrition and hydration." Ama Code of Ethics, E-2.20 Withholding or Withdrawing Life-Sustaining Medical Treatment (2005), available at http://www.ama-assn.org/ama/pub/category/8457.html. In addition, "[t]here is no ethical distinction between withdrawing and witholding life-sustaining treatment." *Id.*; *see also* Cruzan v. Dir., Mo. Dep't of Health, 497 U.S. 261, 278 (1990) (holding that individuals have the right to refuse medical treatment).
3. *Cruzan*, 497 U.S. at 269-79.
4. *See* Superintendent of Belchertown State School v. Saikewicz, 370 N.E.2d 417, 425 (Mass. 1977).
5. This asserted state interest has achieved a new level of significance in the wake of the Supreme Court's recent opinion in Gonzales v. Carhart, 127 S.Ct. 1610 (2007). The government's interest in protecting the "unborn child," *id.* at 1620, was cited as one rationale for justifying the validity of Congress's Partial-Birth Abortion Ban Act of 2003. *Id.* at 1633.

nales, justifications, and exceptional circumstances that may form the basis for a pregnant woman's rejection of medical treatment. Finally, the fourth section addresses the judicial shortcomings of our current system for compelling medical treatment. The article concludes with potential solutions, emphasizing how the legal community should respond to issues of compelled medical treatment for pregnant women. Before entering into a legal analysis, one woman's story provides a useful illustration to what one pregnant woman encountered when resisting medical treatment.

A Nigerian woman and her husband were expecting triplets.[6] Doctors treating the pregnant woman in her third trimester informed the couple that, in their medical opinions, a cesarean section was necessary for the safe delivery of the triplets.[7] The couple, however, was unwilling to consent to the surgery.[8] Before the woman went into labor—and even before she came to the hospital to deliver the triplets—the hospital sought a court order to compel the medical treatment.[9] When the woman arrived at the hospital to deliver her triplets, she was informed that the hospital had sought and obtained the court order mandating the cesarean section.[10] There is no evidence that the hospital seriously reassessed whether a cesarean section was, in fact, necessary once the woman had gone into labor.[11] The woman attempted to seek medical care elsewhere, but the hospital staff would not allow her to leave the premises.[12] When confronted with her lack of options, the woman became livid.[13] When she tried again to leave, she

> was placed in full leathers, a term that refers to leather wrist and ankle cuffs that are attached to the four corners of a bed to prevent the patient from moving. Despite her restraints, the woman continued to scream for help and bit through her intravenous tubing in an attempt to get free.[14]

This course of events did not take place one hundred years ago or in a third world country. Indeed, this barbaric episode occurred in 1984 in Chicago, Illinois.[15]

Court Intervention

When a pregnant woman refuses to consent to treatment deemed medically necessary for the fetus, doctors and hospital administrators may seek a court order to compel such treatment.[16] Courts have varied in their

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6. Janet Gallagher, *Prenatal Invasions & Interventions: What's Wrong with Fetal Rights*, 10 Harv. Women's L. J. 9, 9-10 (1987).
7. *Id.* at 9.
8. *Id.*
9. *Id.*
10. *Id.*
11. *Id.*
12. *Id.* at 9-10.
13. *Id.* at 10.
14. *Id.* (quoting V. Kolder, Women's Health Law: A Feminist Perspective, 1-2 (Aug. 1985) (unpublished manuscript)).
15. *Id.*
16. *See generally* Pemberton v. Tallahassee Mem'l Reg'l Med. Ctr., Inc., 66 F. Supp. 2d 1247 (N.D. Fla. 1999) (holding that a pregnant woman's rights were not violated after a court-ordered caesarean section); *In re* A.C., 573 A.2d 1235 (D.C. 1990) (vacating the order of the trial court to compel a caesarean section due to the trial court's error in gathering information); Jefferson v. Griffin Spalding County Hosp. Auth., 274 S.E.2d 457 (Ga. 1981) (affirming an order compelling a cesarean section, despite the pregnant woman's rejection of treatment based on religious convictions); *In re* FetusBrown, 689 N.E.2d 397 (Ill. App. Ct. 1997) (holding that a pregnant woman cannot be compelled to have a blood transfusion because of her overriding interests in bodily integrity); Crouse-Irving Mem'l Hosp., Inc. v. Paddock, 485 N.Y.S.2d 443 (N.Y. Sup. Ct. 1985) (permitting a doctor to give a blood transfusion against the pregnant woman's will

responses to such requests.[17] Some courts refuse to compel a pregnant woman to undergo medical treatment under almost any circumstances, believing that such an order would infringe upon her constitutional rights.[18] Conversely, other courts have ordered compulsion of even the most invasive medical procedures recommended for the health of the fetus, justifying the order based on the state's interest in protecting the unborn child.[19] Still other courts attempt to reconcile the rights of both the pregnant woman and the fetus by balancing the competing rights.[20] The following section sets forth cases and court responses from both ends of the spectrum.

A Woman's Absolute Right to Say No

Some courts vehemently support a woman's right to refuse medical treatment and have consistently declined to issue court orders compelling medical treatment over the objections of competent pregnant women.[21] An Illinois appellate court gave absolute deference to the pregnant woman's right to refuse medical treatment in *In re Baby Boy Doe*.[22] While pregnant woman "Doe" was receiving regular prenatal treatment, medical tests revealed that the fetus was not receiving enough oxygen.[23] Dr. Meserow, the treating physician, determined that a cesarean section was necessary to protect the child from death or severe retardation.[24] Doe refused to consent to the cesarean section because of her religious beliefs, and her husband agreed with that decision.[25] In an emergency hearing, the state, through Dr. Meserow and the treating hospital, sought a court order to compel Doe to undergo an immediate cesarean section.[26] The trial court found that the chances of the unborn child surviving through natural labor were "close to zero," but the chances of the child surviving a cesarean section were "close to 100%."[27] In addition, the chances of Doe dying in a cesarean delivery were about 1 in 10,000.[28] Despite these findings of fact, the trial court denied the state's request for a court-ordered cesarean section.[29] The court held that "the state has failed to demonstrate that there is statutory or case law to support justifying the intrusive procedure requested herein by way of a court order against a competent person."[30]

The state appealed, claiming that the trial court erred by not balancing the rights of the viable fetus against those of Doe.[31] The appellate court flatly rejected this argument, holding that trial courts "should not engage in such a balancing . . . even in circumstances where the [pregnant woman's] choice may be harmful to her fetus."[32] In support of their holding, the appellate court cited to numerous state cases that emphasized the constitutional rights involved in refusing medical treatment. Applying state case law, the court set forth powerful language:

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because of the state's interests in protecting the unborn child and its mother).

17. Monica K. Miller, *Refusal to Undergo a Cesarean Section: A Woman's Right or a Criminal Act?*, 15 Health Matrix 383, 385 (2005).
18. *See, e.g.*, *In re Baby Boy Doe*, 632 N.E.2d 326 (Ill. App. Ct. 1994).
19. *See, e.g.*, Jefferson, 274 S.E.2d at 459-60.
20. *See, e.g.*, *In re* A.C., 573 A.2d at 1243-47.
21. Miller, *supra* note 17, at 386.
22. 632 N.E.2d at 335.
23. *Id.* at 326.
24. *Id.*at 327.
25. *Id.* The case simply refers to Doe's "husband." It is unclear whether the husband is Baby Boy Doe's father; however, the court does not elaborate upon this inference.
26. *Id.* at 327-28.
27. *Id.* at 328.
28. *Id.*
29. *Id.* at 329.
30. *Id.*
31. *Id.* at 330.
32. *Id.*

> Applied in the context of compelled medical treatment of pregnant women, the rationale [of an Illinois state case] directs that a woman's right to refuse invasive medical treatment, derived from her rights to privacy, bodily integrity, and religious liberty, is not diminished during pregnancy. The woman retains the same right to refuse invasive treatment, even of lifesaving or other beneficial nature, that she can exercise when she is not pregnant. The potential impact upon the fetus is not legally relevant. . . .[33]

Thus, the state of Illinois explicitly rejected any test that balances the mother's rights with those of a fetus.[34] At least one court has declined to follow *Baby Boy Doe*, holding that while Illinois may decline to enter into a balancing test, other states are not bound by the federal constitution to follow Illinois.[35]

The State's Right to Protect the Viable Fetus

Other states have adopted a position on the opposite end of the spectrum from Illinois. In Georgia, the supreme court took a very strong position defending the state's interests in viable but unborn children.[36] In *Jefferson v. Griffin Spalding County Hospital Authority*, a pregnant woman seeking prenatal care was advised that a cesarean section was medically necessary to protect her unborn child.[37] She declined the surgery because of her religious beliefs.[38] At an emergency hearing, a trial court determined that there was a 99 to 100 percent chance that the unborn child would not survive a vaginal delivery, compared to an almost certainty that the child would survive a cesarean delivery.[39] The trial court granted the order requiring the mother to submit to the surgery and the Georgia Supreme Court denied a motion to stay.[40] According to the trial court, any intrusion the pregnant woman faced was "outweighed by the duty of the State to protect a living, unborn human being from meeting his or her death before being given the opportunity to live."[41] It is notable that, while the trial court devoted the majority of its opinion to addressing the risks and rights relative to the unborn child, the court summarized the parents' interests in just three short sentences.[42]

Meeting in the Middle—*a Balancing Test*

Baby Boy Doe and *Jefferson* represent the extremes: one court focused almost exclusively on the pregnant woman's rights, and the other court based its opinion almost entirely on the state's interests in protecting the viable fetus. Other states, hesitant to adopt such extreme positions, have developed balancing tests to determine whether a pregnant woman's rejection of medical treatment should be honored.[43]

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33. *Id.* at 332.
34. *Id.* at 333.
35. Pemberton v. Tallahassee Mem'l Reg'l Med. Ctr., Inc., 66 F. Supp. 2d 1247, 1252 n.12 (N.D. Fla. 1999). This court, a district court in Florida, even states that the suggestion in *Baby Boy Doe* that medical treatment can never be forced on a citizen "was simply wrong." *Id.*
36. Jefferson v. Griffin Spalding County Hosp. Auth., 274 S.E.2d 457, 460 (Ga. 1981).
37. *Id.* at 458.
38. *Id.*
39. *Id.* at 459.
40. *Id.* at 459-60.
41. *Id.* at 460.
42. *Id.*; *see* also Lisa C. Ikemoto, *Furthering the Inquiry: Race, Class, and Culture in the Forced Medical Treatment of Pregnant Women*, 59 Tenn. L. Rev. 487, 500-01 (1992).
43. *See, e.g.*, Miller, *supra* note 17, at 386.

In *Pemberton v. Tallahassee Memorial Regional Medical Center*, a Florida District Court synthesized the holdings of several courts that had formulated balancing tests to address the issue of compelled medical treatment.[44] The court first recognized the constitutional interests present, including the right to bodily integrity, the right of a competent adult to refuse medical treatment, the right to make personal family decisions relating to child birth, and the right to religious freedom.[45] The court then outlined the state's interests in preserving the unborn child's life,[46] finding that the state has an "increasing interest in preserving a fetus as it progresses toward viability."[47] The Pemberton court held that the state's interest in protecting the viable fetus outweighed the interests of the mother.[48]

In considering the competing interests, the Pemberton court found it pertinent that the baby was at full term and birth was imminent.[49] The court also noted that the mother was not attempting to avoid the child's birth altogether, but only desiring to avoid a particular procedure for giving birth.[50] Ms. Pemberton argued that vaginal delivery did not present an "appreciable risk" to her baby, and claimed that Florida's interests in the unborn child were nonexistent because of this lack of serious risk.[51] Rejecting Ms. Pemberton's contention, the court noted that five of the six physicians who testified claimed the risk created by vaginal delivery under such circumstances was "unacceptably high" and that the "standard of care therefore requires a cesarean."[52] One doctor assessed the risk involved with vaginal delivery at four to six percent.[53] The court justified their deference to this seemingly low risk by stating that "[w]hen the consequence is almost certain death, this is a very substantial risk."[54] Finding that "no reasonable or even unreasonable argument could be made in favor of vaginal delivery," the court held that the procedure was required in the interests of the baby.[55] The court concluded, "Because of the very substantial risk that the course Ms. Pemberton was attempting to pursue would result in the death of her baby, requiring her to undergo an unconsented caesarean section did not violate her constitutional rights."[56] The district court claimed to use a balancing test in reaching their conclusion; however, one scholar noted that the court opinion focused more on the state's ability under *Roe v. Wade* to force the surgery and spent less time balancing the competing interests.[57] Pemberton offers only minimal guidance to a

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44. 66 F. Supp. 2d 1247 (N.D. Fla. 1999). A state court compelled Ms. Pemberton to submit to a caesarean section, finding the procedure medically necessary to avoid the risk of death to the fetus. *Id.* at 1249. The procedure produced a healthy baby and Ms. Pemberton did not suffer any resulting complications. *Id.* Ms. Pemberton filed suit in federal court under 42 U.S.C. § 1983, alleging violations of her constitutional right to procedural due process. *Id.* at 1250. She also alleged conspiracy under 42 U.S.C. § 1985. *Id.*
45. *Id.* at 1251. The court acknowledged that of these interests present, religion is the only right explicitly guaranteed in the Constitution. *Id.* Nevertheless, the present interests have been recognized as constitutionally protected. *Id.*
46. *Id.*
47. *Id.* (citing *Roe v. Wade*, 410 U.S. 113 (1973)).
48. *Id.* at 1251-52.
49. *Id.* at 1251.
50. *Id.* ("Bearing an unwanted child is surely a greater intrusion on the mother's constitutional interests than undergoing a caesarean section to deliver a child that the mother affirmatively desires to deliver.").
51. *Id.* at 1252.
52. *Id.* at 1253.
53. *Id.*
54. *Id.* Another doctor testified that the risk was only about two percent. *Id.* The court then analogized the risk of vaginal delivery with the risk of airline travel, asserting that "if an airline told prospective passengers there was a four to six percent chance of a fatal crash, nobody would board the plane." *Id.*
55. *Id.* at 1254.
56. *Id.*
57. *See* Daniel R. Levy, *The Maternal-Fetal Conflict: The Right of a Woman to Refuse a Cesarean Section Versus the State's Interest in Saving the Life of the Fetus,* 108 W. Va. L. Rev. 97, 120 (2005).

court that attempts to undergo a balancing test when faced with the issue of compelling a competent woman to consent to medical treatment.

An Appropriate Balancing Test

Courts have utilized balancing tests to weigh the competing interests between the pregnant woman, the unborn child, and the state. Cases in this area of the law involve unique and distinguishable facts and—in a perfect legal system—a court can utilize a balancing test to give appropriate weight to particularized circumstances. In constructing such a balancing test, all present interests and rights should be considered. This section outlines the competing rights and interests involved when a pregnant woman refuses medical treatment.

The Pregnant Woman's Rights

Pregnant women, like all individuals in this country, enjoy certain rights protected under the Constitution.[58] Courts almost universally acknowledge that a pregnant woman will not be compelled to undergo medical treatment in the interests of the fetus if the treatment poses a risk to maternal health.[59] This section is dedicated to compelled medical treatment that does not pose a substantial risk to the pregnant woman's health.

Competing interests present themselves when discussing a pregnant woman's rights. Some argue that the condition of pregnancy alters a woman's fundamental rights.[60] They assert that once the time has passed for a woman to obtain a lawful abortion, she implicitly agrees to certain changes in her rights and duties.[61] Others argue that a woman should not lose certain fundamental rights simply because she is pregnant.[62] This section discusses the fundamental rights that all pregnant women retain as citizens protected under the Constitution.[63]

In *Cruzan v. Director, Missouri Department of Health*, the United States Supreme Court reiterated the constitutional principle that competent adults have a right under the Fourteenth Amendment to refuse medical treatment.[64] The family of Nancy Cruzan, a thirty-year-old female who was rendered in a persistent vegetative state after a car accident, sought a court order directing hospital staff to remove life support.[65] The court

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58. *See Roe v. Wade*, 410 U.S. 113, 153 (1973); Pamela Harris, *Compelled Medical Treatment of Pregnant Women: The Balancing of Maternal and Fetal Rights*, 49 Clev. St. L. Rev. 133, 135 (2001).
59. *See* April L. Cherry, *Roe's Legacy: The Nonconsensual Medical Treatment of Pregnant Women and Implications for Female Citizenship*, 6 U. Pa. J. Const. L. 723, 732 (2004) [hereinafter Cherry, *Roe's Legacy*] ("In fact, the state's interest is not so broad as to reduce a woman's interest in her own health to the health of her fetus."); Joel Jay Finer, *Toward Guidelines for Compelling Cesarean Surgery: Of Rights, Responsibility, and Decisional Authenticity*, 76 Minn. L. Rev. 239, 272 (1991) ("[A]ny risks to maternal health constitutionally outweigh any dangers to a fetus.").
60. *See, e.g.*, Gallagher, *supra* note 6, at 34 (citing Robertson, *Procreative Liberty and the Control of Conception, Pregnancy, and Childbirth*, 69 Va. L. Rev. 405, 463 (1983) (acknowledging the view held by some scholars that a pregnant woman assumes "a unique and much more expansive duty")).
61. Finer, *supra* note 59, at 259.
62. *See In re Baby Boy Doe*, 632 N.E.2d 326, 332 (Ill. App. Ct. 1994). With strongly worded language, the court held:

    > [A] woman's right to refuse invasive medical treatment, derived from her rights to privacy, bodily integrity, and religious liberty, is not diminished during pregnancy. The woman retains the same right to refuse invasive treatment, even of lifesaving or other beneficial nature, that she can exercise when she is not pregnant. The potential impact upon the fetus is not legally relevant; to the contrary, the Stallman court explicitly rejected the view that the woman's rights can be subordinated to fetal rights.

    Id. (citing Stallman v. Youngquist, 531 N.E.2d 355 (Ill. 1988)).
63. This section does not address the individual arguments a pregnant woman may assert, including her right to religious freedom or her right of autonomy. For a discussion on these issues, *see infra* pp. 18-22.
64. 497 U.S. 261, 278 (1990).
65. *Id.* at 265-66.

held that "the Due Process Clause protects an interest in life as well as an interest in refusing life-sustaining medical treatment."[66] The right to refuse treatment may not be absolute; an individual's liberty interests may be balanced against relevant state interests.[67] In *Cruzan*, the court held that although Nancy Cruzan had a right to terminate life-prolonging treatment, the state may impose a heightened standard for scrutinizing evidence of her wishes.[68] The Supreme Court, in *Cruzan* and in other cases, has asserted that individuals have a "right to bodily integrity."[69] According to the famous jurist Benjamin Cardozo, "Every human being of adult years and sound mind has a right to determine what shall be done with his own body. . . ."[70] A woman does not lose this right to make decisions regarding her medical care when she becomes pregnant.[71] Nevertheless, the Supreme Court's recent decision in *Gonzales v. Carhart*, which is discussed in more detail below, calls into question the extent of pregnant women's rights.[72]

The Supreme Court has held that individuals enjoy a right of privacy[73] and has recognized that the right of privacy extends to private family decisions.[74] In *Roe v. Wade*,[75] the Supreme Court discussed a woman's right to privacy within the context of abortion and emphasized the limitations of that privacy.[76] A pregnant woman who wishes to avoid invasive medical treatment may argue that her right of privacy precludes the treatment, but it is important to note that this right is not absolute.[77]

Fetal Rights

The Supreme Court has asserted that an unborn child is not a "person" within the protection of the Fourteenth Amendment.[78] In fact, the Court has noted that "the unborn have never been recognized in the law as persons in the whole sense."[79] Some state courts have refused to treat the unborn child as a minor who is subject

66. *Id*. at 281.
67. *Id*. at 279; *see also* Jacobson v. Massachusetts, 197 U.S. 11 (1905) (holding that the state's interest in protecting the community from a smallpox epidemic overrides an individual's right to refuse a vaccination); Buck v. Bell, 274 U.S. 200 (1927) (upholding a court-ordered sterilization of a "feeble minded" woman in the best interests of society).
68. *Cruzan*, 497 U.S. at 284 (holding that states may impose "rigorous procedures" in allowing incompetent patients to refuse medical treatment).
69. *See, e.g., In re A.C.*, 573 A.2d 1235, 1245 (D.C. 1990) ("Decisions of the Supreme Court, while not explicitly recognizing a right to bodily integrity, seem to assume that individuals have the right, depending on the circumstances, to accept or refuse medical treatment or other bodily invasion."); *see also Cruzan*, 497 U.S. at 269 ("This notion of bodily integrity has been embodied in the requirement that informed consent is generally required for medical treatment.").
70. *Cruzan*, 497 U.S. at 269 (quoting Schloendorff v. Society of N.Y. Hosp., 211 N.Y. 125, 129-30 (1914)).
71. *See* Cherry, Roe's Legacy, *supra* note 59, at 739 ("Indeed, if women lose their interest in bodily integrity at conception, then we would allow the state to objectify women—to treat them solely as a thing to be used for the good of another or the good of the nation.").
72. *See* Gonzales v. Carhart, 127 S.Ct. 1610, 1649 (2007) (Ginsburg, J., dissenting) (asserting that the majority's holding "deprives women of the right to make an autonomous choice, even at the expense of their safety").
73. *See generally* Griswold v. Connecticut, 381 U.S. 479 (1965) (recognizing the right of privacy as guaranteed within the penumbras of the Bill of Rights).
74. *See generally* Moore v. City of East Cleveland, 431 U.S. 494 (1977) (recognizing the freedom of personal choice in private matters of family living arrangements).
75. 410 U.S. 113 (1973).
76. *Roe* was refined by Planned Parenthood of Southeastern Pennsylvania v. Casey, 505 U.S. 833 (1992). The core holdings in Roe remain in place. *Id.* at 879 ("Regardless of whether exceptions are made for particular circumstances, a State may not prohibit any woman from making the ultimate decision to terminate her pregnancy before viability.").
77. *See Roe*, 410 U.S. at 155; *see also* Julie B. Murphy, *Competing Interests: When a Pregnant Woman Refuses to Consent to Medical Treatment Beneficial to Her Fetus*, 35 Suffolk U. L. Rev. 189, 195 (2001) (discussing limitations on the right to privacy).
78. *Roe*, 410 U.S. at 158.
79. *Id.* at 162.

to juvenile court jurisdiction.[80] Other state legislatures have created statutory exceptions encompassing fetuses, adopting statutes that afford unborn children with certain protectable rights.[81] Outside the scope of abortion, several legal doctrines imply that the fetus has some legal rights.[82] Courts have held that whatever protection fetuses enjoy, these rights are not superior to the rights of the mother.[83] Most agree that the central issue of fetal rights is viability as defined in abortion cases.[84]

In *Roe*, The United States Supreme Court held that a fetus is viable and may be entitled to state protection in the third trimester.[85] Two decades later in *Planned Parenthood of Southeastern Pennsylvania v. Casey*, the Supreme Court rejected *Roe's* "rigid trimester framework" but did not expound on the definition of viability.[86] Fifteen years after *Casey*, the Supreme Court implicitly extended the state's ability to protect fetuses in *Gonzales v. Carhart*.[87] The Court in *Gonzales* upheld the constitutionality of the Partial-Birth Abortion Act of 2003 (the Act).[88] In support of its holding, the Court cited the state's interest in protecting the fetus, among other justifications.[89] *Gonzales* signaled a significant departure from *Roe* and its progeny by referring to pre-viability second-trimester abortions as "late-term" abortions.[90] In addition, *Gonzales* is notable in that it upheld the constitutionality of the Act, despite the fact that the Act did not contain an exception safeguarding the pregnant woman's health.[91]

Courts applying *Roe* and its progeny in cases involving compelled medical treatment of pregnant women have interpreted the case quite differently, producing contrasting results.[92] Noting that the fetus's viability was not at issue because the pregnant woman was at term, one court said that the only thing standing between a fetus and a child was a scalpel.[93] The court held, "In these circumstances, the life of the infant inside its mother's womb was entitled to be protected."[94] Taking this argument a step further, some scholars believe the viable

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80. *See In re Fetus Brown*, 689 N.E.2d 397, 405 (Ill. Ct. App. 1997); Jefferson v. Griffin Spalding County Hosp. Auth., 274 S.E.2d 457, 459 (Ga. 1981); *Id.* at 461-62 (Smith, J., concurring) (claiming that the term "child" as used in the juvenile court jurisdiction statute includes only children who have "seen the light of day"). *But see* Jefferson, 274 S.E.2d at 460 (Hill, J., concurring) (agreeing with the majority but stating his opinion that the juvenile court would have jurisdiction over the unborn child).
81. *See* Mo. Rev. Stat. § 1.205 (2005) (stating that the "life of each human being begins at conception" and that "[u]nborn children have protectable [sic] interests in life, health, and well-being").
82. *See* Finer, *supra* note 59, at 247-49 (outlining the historical views of fetuses within the context of property law and intestate succession, criminal law, and tort law); Murphy, *supra* note 77, at 202-05 (discussing fetal rights in tort law and criminal law).
83. *In re* A.C., 573 A.2d 1235, 1244 (D.C. 1990) ("Surely, however, a fetus cannot have rights in this respect superior to those of a person who has already been born."); *In re Fetus Brown*, 689 N.E.2d at 401.
84. *But see* Cherry, *Roe's Legacy*, *supra* note 59, at 726 (arguing that *Roe* should not be used outside the context of abortion).
85. *Roe v. Wade*, 410 U.S. 113, 160, 164-65 (1973).
86. Planned Parenthood of Southeastern Pennsylvania v. Casey, 505 U.S. 833, 878 (1992).
87. 127 S.Ct. 1610 (2007).
88. *Id.* at 1639.
89. *Id.* at 1633.
90. *See Id.* at 1632, 1634; *see also id.* at 1650 (Ginsburg, J., dissenting) ("The Court's hostility to the right *Roe* and *Casey* secured is not concealed.").
91. *Id.* at 1638 (majority opinion).
92. *Compare In re Fetus Brown*, 689 N.E.2d 397, 404-05 (Ill. Ct. App. 1997) (noting that Roe applies to a state's interest in protecting a viable fetus, and applying the state's own statutory definition of viability in refusing to compel the blood transfusion of a woman thirty-four weeks pregnant), with *In re* Jamaica Hosp., 491 N.Y.S.2d 898, 900 (N.Y. Sup. Ct. 1985) (citing Roe in defining viability as the point that a fetus can survive outside the womb and applying it to support a court order compelling the blood transfusion of a woman only eighteen weeks pregnant).
93. *In re Madyun*, 114 Wash. L. Rep. 2233 (D.C. Super. Ct. 1986), reprinted as addendum to *In re* A.C., 573 A.2d at 1262.
94. *Id.*

fetus is entitled to the same rights as a newborn child.[95] In stark contrast, other courts have refused to consider the rights of a viable fetus, no matter how close the mother is to delivery,[96] even when the child can live outside the womb without medical assistance.[97]

A complicating issue is the precise definition of "viability" subsequent to the Supreme Court's disapproval of *Roe*'s rigid trimester framework.[98] With advances in medical technology, fetuses can exist on their own outside the womb at an earlier date.[99] Fetal rights proponents assert that this advance in treatment requires a change in the legal status of fetuses to "developing human[s]."[100] Opponents of this theory fear that if such a status were adopted, it might create "a staggering array of duties and liabilities for all women of childbearing age."[101] Fetal rights proponents advocating for constitutionally protected fetal rights, however, justify this infringement upon the pregnant woman's rights by asserting that she impliedly surrendered her rights when she failed to abort the fetus during the lawful period.[102]

Courts implementing a balancing test must ask to what extent they will consider the unborn child's interests when a pregnant mother refuses medical treatment necessary in the interests of the child. Some courts believe that, although the fetus has protectible rights, these rights should be represented by the state.[103] Other courts assert that once the fetus reaches viability, its interests should be considered in the balancing test.[104] In the absence of a United States Supreme Court decision on this issue, it is likely that states will continue to develop their own precedent, tailored to the state's constitution and political ideologies. These holdings will also continue to produce drastically contrasting viewpoints from state to state.

The State's Interests

The state has several valid interests at stake when a pregnant woman refuses medical treatment that may be necessary for the unborn child.[105] Indeed, "[c]ourts generally consider four state interests—the preservation of life, the prevention of suicide, the protection of third parties, and the ethical integrity of the medical profession—in considering whether to override competent treatment decisions."[106] Arguably, *Roe* grants the state an interest in the preservation of life, as well as in the protection of third parties.[107]

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95. *See* Finer, *supra* note 59, at 255 (noting that some have argued that "viable fetuses merit all protection currently given the newborn infant"); Gallagher, *supra* note 6, at 41-42 (stating that some have proposed a change in the legal status of fetuses to "developing human[s]" (quoting Patricia A. King, *The Juridical Status of the Fetus: A Proposal for Legal Protection of the Unborn*, 77 Mich. L. Rev. 1647, 1676 (1979)) (alteration in original)).
96. *In re Fetus Brown*, 689 N.E.2d 397, 405 (Ill. App. Ct. 1997) (holding that a woman who was thirty-four weeks pregnant should not be compelled to treatment and stating that "without a determination by the [state] legislature that a fetus is a minor for purposes of the Juvenile Court Act, we cannot separate the mother's valid treatment refusal from the potential adverse consequences to the viable fetus").
97. *In re Baby Boy Doe*, 632 N.E.2d 326, 328 (Ill. App. Ct. 1994).
98. Planned Parenthood of Southeastern Pennsylvania v. Casey, 505 U.S. 833, 878 (1992).
99. Finer, *supra* note 59, at 253.
100. Gallagher, *supra* note 6, at 42 (alteration in original).
101. *See id.* Gallagher argues that affording fetuses the legal status of citizens will create a slippery slope, creating duties for pregnant women as well as women who may become pregnant—if a sexually active woman simply misses a period, she should refrain from activities that may be hazardous to the potential developing human inside her. *Id.* at 42-43.
102. *See* Finer, *supra* note 59, at 259; *see also In re* A.C., 573 A.2d 1235, 1256 (D.C. 1990) (Belson, J., dissenting) (arguing that the pregnant woman "has placed herself in a special class of persons").
103. *See* Pemberton v. Tallahassee Mem'l Reg'l Med. Ctr., Inc., 66 F. Supp. 2d 1235, 1251 (N.D. Fla. 1999); *In re A.C.*, 573 A.2d at 1245.
104. *In re A.C.*, 573 A.2d at 1255 (Belson, J., dissenting) ("When the unborn child reaches the state of viability, the child becomes a party whose interests must be considered.").
105. *See generally Roe v. Wade*, 410 U.S. 113, 149-51 (1973) (discussing the state's interests in the context of abortion).
106. *In re Baby Boy Doe*, 632 N.E.2d 326, 334 (Ill. App. Ct. 1994); accord *In re A.C.*, 573 A.2d at 1246.
107. *But see In re Baby Boy Doe*, 632 N.E.2d at 334.

The Supreme Court in *Roe* held that the state has an "important and legitimate interest in protecting the potentiality of human life."[108] The state frequently asserts its interests, granted through *Roe*, as a means for compelling medical treatment that is needed for the viable fetus. The state also often asserts its *parens patriae* authority, a term that means "parent of the country."[109] As parens patriae, the goverment acts as guardian of those who are not able to make their own decisions.[110] Like all other competing rights involved, the state's interest in protecting the viable fetus is not absolute.[111] The state must have a "truly compelling" interest to justify the invasion upon a pregnant woman's rights.[112]

The other two state interests are the state's interest in preventing suicide and the state's interest in preserving the ethical integrity of the medical profession.[113] The prevention of suicide is generally not at issue when pregnant women are compelled to undergo medical treatment.[114] As for medical integrity, the court in *Baby Boy Doe* held that this factor weighs heavily in favor of deferring to the pregnant woman's decision.[115] Here a physician sought a court order to compel a cesarean section, which was denied.[116] The appellate court held that in seeking the court order, the physician's actions "appear[ed] to be inconsistent with the ethical position taken by the profession."[117]

Analysis of The Issues

This section addresses some underlying issues surrounding the compelled medical treatment of pregnant women. First, this section addresses why a woman would be unwilling to agree to medical treatment. Second, it outlines religious motivations for rejecting medical treatment and how courts have responded to women who reject medical treatment based on religious convictions. Third, it discusses the medical community's reaction to the issue. This section concludes with a discussion on the importance of personal autonomy within the scope of medical treatment.

Why Would Anyone Refuse Treatment? *A Medical Analysis*

It is rare for a pregnant woman to refuse to consent to medical treatment that is needed in the interests of protecting the fetus. One 1987 study revealed that only twenty-one court orders were sought by obstetricians seeking to compel medical treatment.[118] Nevertheless, these numbers may have been skewed because many cases of this nature go unreported.[119] While most pregnant women are willing to undergo medical treatment that their physician believes is in the best interests of the unborn child,[120] there are valid reasons for pregnant women to question and reject recommended treatment. In particular, pregnant women frequently reject two

108. *Roe*, 410 U.S. at 162.
109. Otis H. Stephens, Jr. & John M. Scheb Ii, American Constitutional Law 518 (3d ed. 2003).
110. Id.
111. April L. Cherry, *The Free Exercise Rights of Pregnant Women Who Refuse Medical Treatment*, 69 Tenn. L. Rev. 563, 596 (2002) [hereinafter Cherry, *Free Exercise Rights*].
112. *See In re A.C.*, 573 A.2d 1235, 1246 (D.C. 1990).
113. *See supra* text accompanying note 4.
114. *See In re Baby Boy Doe*, 632 N.E.2d 326, 334 (Ill. App. Ct. 1994).
115. *Id.* ("In the ethical opinions and recommendations it has issued, the medical profession strongly supports upholding the pregnant woman's autonomy in medical decision-making."). *But see* Gonzales v. Carhart, 127 S.Ct. 1610, 1633 (2007) (citing the government's interest in protecting the integrity of the medical profession as grounds for upholding a statute that prevents a woman from being able to obtain a particular type of abortion—an intact D&E).
116. *In re Baby Boy Doe*, 632 N.E.2d at 335.
117. *Id.*
118. *See* Ikemoto, *supra* note 42, at 489.
119. *Id.* No recent studies have been found that depict up-to-date statistics on the prevalence of compelled medical treatment.
120. *See* Miller, *supra* note 17, at 385.

medical treatments: cesarean sections and blood transfusions.

In many situations, doctors suggest that a cesarean section is medically necessary for delivering a healthy child. A closer look at statistical information casts doubt on whether a cesarean section is actually necessary, or whether it is simply a doctor's preferred method of delivery. Over the past ten years, the rate of cesarean sections has doubled, now accounting for nearly thirty percent of all births in the United States.[121] This rapid increase in the rate of cesarean sections may be due in part to the mother's election to give birth via cesarean section.[122] This increased frequency may also be due to the increase in medical malpractice litigation involving obstetricians.[123] The sudden increase in the frequency of this procedure might cause a pregnant woman to question whether her doctor truly believes a cesarean section is necessary for the health of the unborn child or whether the doctor is merely reducing his or her risk of liability.

Women who undergo a cesarean section will frequently be required to have a cesarean section in subsequent pregnancies because the risk of uterine rupture through vaginal birth increases after a cesarean section has been performed.[124] Thus, women who desire to give birth to more children vaginally may hesitate to agree to a cesarean section. Other rationales for rejecting a cesarean may include the pregnant woman's fear and apprehension of pain.

Some pregnant women have been compelled to undergo blood transfusions against their wishes.[125] It is important to note that surgical patients who accept blood transfusions run a greater risk of infection.[126] One study revealed that "27% of those transfused after hip fractures suffered infections, compared with 15% of those who didn't receive blood."[127] Blood transfusions also carry a risk of contracting disease.[128] In sum, there are many valid rationales for questioning, and rejecting, a doctor's recommended treatment plan.

Religious Arguments

Perhaps the most frequently invoked reason for rejecting medical treatment centers on a patient's deeply held religious beliefs. In one court case, a Muslim woman rejected medical treatment, arguing that her religious beliefs gave her "the right to decide whether or not to risk her own health to eliminate a possible risk to the life of her undelivered fetus."[129] The court rejected her religious arguments and granted physicians permission to intervene on the ground that failure to perform medical treatment risked the health of the fetus.[130] In almost every other court case, the religion in question is that of the Jehovah's Witness. Many Jehovah's Witnesses feel they are bound by their religious beliefs to reject blood and blood products.[131] Jehovah's Witnesses have frequently resisted a cesarean section or a blood transfusion that, according to physicians, is necessary for the fetus.

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121. Jennifer Barrett, *Special Deliveries; Are Doctors Performing Too Many C-Sections?*, Newsweek, Apr. 3, 2006, at 45.
122. *Id.*
123. *Id.*
124. *Id.*
125. *See, e.g.*, Raleigh Fitkin-Paul Morgan Mem'l Hosp. v. Anderson, 201 A.2d 537, 538 (N.J. 1964); *In re* Jamaica Hosp., 491 N.Y.S.2d 898, 900 (N.Y. Sup. Ct. 1985).
126. Valerie Reitman, *With Less Blood Shed: As Techniques, Tools and Attitudes Change, Transfusion-Free Surgery Goes Mainstream*, L.A. Times, Jan. 31, 2005, at F1.
127. *Id.*
128. *Id.*
129. *In re Madyun*, 114 Wash. L. Rep. 2233 (D.C. Super. Ct. 1986), reprinted as addendum to *In re* A.C., 573 A.2d 1235, 1262 (D.C. 1990).
130. *Id.* at 1263.
131. Joelyn Knopf Levy, *Jehovah's Witnesses, Pregnancy, and Blood Transfusions: A Paradigm for the Autonomy Rights of All Pregnant Women*, 27 J.L. Med. & Ethics 171, 171 (1999).

In *Jefferson*, as discussed previously, a woman in her thirty-ninth week of pregnancy refused to consent to a cesarean section because the procedure would require a blood transfusion.[132] The court all but disregarded her religious concerns, dismissing them without any legal support.[133] This dismissal of religious convictions is not an unusual occurrence. "Although most of the pregnant women in the reported cases assert a claim of religious freedom, neither scholars nor courts sufficiently address the free exercise claim."[134]

The court in *In re Jamaica Hospital* took even more invasive action when a Jehovah's Witness was being treated.[135] A woman who was just eighteen weeks pregnant refused a blood transfusion that the doctor believed to be necessary to save the fetus.[136] Despite her religious views and the early term of pregnancy, the court ordered the procedure.[137] The court held that "the State has a highly significant interest in protecting the life of a mid-term fetus, which outweighs the patient's right to refuse a blood transfusion on religious grounds."[138] The court's short opinion does not cite any case regarding religious freedom nor does it contain any further analysis on the issue.

Courts frequently dismiss free exercise arguments relatively quickly and, seemingly, without much thought.[139] Courts seem to assume that deeply held religious beliefs are automatically overridden by the state's interest in the unborn child.[140] Not only is this disrespectful of all religions, it also overlooks important constitutional considerations. The First Amendment Free Exercise Clause protects the right of citizens, even those in "minority faiths," to exercise their religious beliefs.[141] Nonetheless, this right is not absolute.[142] The state may regulate religious conduct, but only to the extent necessary to protect society.[143] Some believe that the courts should protect minority religions by making certain accommodations.[144] It is within a court's power to carve out exceptions to accommodate religious beliefs of Jehovah's Witnesses within the context of compelled medical treatment.

Medical Considerations

The doctor-patient relationship and the ethics of medicine add a complex element to an already murky legal issue. Historically, obstetricians focused mainly on adequate treatment for the pregnant woman, due in part to the lack of medical technology.[145] More recently, certain medical advancements have allowed doctors to treat the fetus itself.[146] "In short, medicine's enhanced ability to treat the fetus directly has profoundly affected, perhaps even created, physicians' perception of the fetus as a separate patient."[147] When a pregnant woman rejects medical treatment that is in her unborn child's best interests, she may be creating a conflict of interest for her physician.

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132. *Jefferson v. Griffin Spalding County Hosp. Auth.*, 274 S.E.2d 457, 457 (Ga. 1981).
133. *Id.* at 459.
134. Cherry, *Free Exercise Rights*, *supra* note 111, at 566.
135. 491 N.Y.S.2d 898, 899 (N.Y. Sup. Ct. 1985).
136. *Id.*
137. *Id.* at 900.
138. *Id.*
139. Cherry, *Free Exercise Rights*, *supra* note 111, at 566.
140. *Id.*
141. *Id.* at 568.
142. *Id.* at 575.
143. *Id.*
144. *Id.* at 577.
145. Lawrence J. Nelson & Nancy Milliken, *Compelled Medical Treatment of Pregnant Women: Life, Liberty, and Law in Conflict*, 259 Jama 1060, 1060 (Feb. 19, 1988).
146. *Id.*
147. *Id.*

Surprisingly, courts have held that ethical considerations in the medical field are favorable to deferring to the pregnant woman's wishes to reject treatment.[148] One court noted that medical journals advise treating physicians to give the pregnant woman information necessary for her to make an informed decision and cautions them to avoid putting pressure on her.[149] The American Medical Association officially opposes the compelled medical treatment of pregnant women.[150] This rejection is made, in part, out of a concern that doctors would become "the pregnancy police," serving as government agents rather than medical caregivers.[151] Leaders in the medical community simply believe it is unwise "to recognize fetal rights that would create an adversarial relationship between a pregnant woman and her fetus."

Frequent medical interventions that usurp the patient's wishes may deter individuals from seeking necessary medical treatment. Women who have high-risk pregnancies might avoid the hospital altogether out of a fear that their wishes and opinions will be disregarded. The pregnant women who are most likely to need medical assistance may give birth in homes, out of the reach of doctors acting as "pregnancy police." As a result, pregnant women and their unborn children are in a much more dangerous situation—death or serious bodily injury is more likely without any medical supervision. The medical community must be sensitive to these concerns and should avoid a widespread practice of compelling medical treatment to competent adults.

Autonomy

When our legal system compels a pregnant woman to undergo medical treatment for the good of the unborn child, the woman's rights are subordinate to those of the fetus. Professor Finer analogized between compelled medical treatment and the novel, *The Handmaid's Tale*.[153] In *The Handmaid's Tale*, Margaret Atwood depicts a society, set years in the future, in which toxins and pollutants have made reproduction so difficult that humanity is beginning to become extinct. The narrator, a female who is now valued only for her womb, mourns her loss of freedom:

> I used to think of my body as an instrument, of pleasure, or a means of transportation, or an implement for the accomplishment of my will. . . . Now the flesh arranges itself differently. I'm a cloud, congealed around a central object, the shape of a pear, which is hard and more real than I am and glows red within its translucent wrapping.[155]

Concededly, Atwood's work of fiction is an extreme illustration of valuing women for just one of their many roles in society; however, its themes illustrate a danger that becomes more real when viewed in the context of compelled medical treatment.[156]

148. *In re Baby Boy Doe*, 632 N.E.2d 326, 334 (Ill. App. Ct. 1994).
149. *Id*. at 335.
150. Cherry, *Free Exercise Rights*, *supra* note 111, at 619.
151. *Id*. (arguing that certain legal duties imposed "'may require the physician to act as an agent of the state rather than as an independent patient counselor'") (quoting Board of Trustees, American Medical Association, *Legal Interventions During Pregnancy: Court Ordered Medical Treatments and Legal Penalties for Potentially Harmful Behavior by Pregnant Women*, 264 Jama 2663, 2665 (1990)).
152. Nelson & Milliken, *supra* note 145, at 1065.
153. Finer, *supra* note 59, at 273.
154. Margaret Atwood, The Handmaid's Tale, (Houghton Mifflin 1986).
155. *Id*. at 73-74.
156. Consider also Justice Ginsburg's dissent in *Gonzales*, which argues that the majority's holding utilizes an archaic stereotype by placing all pregnant women in the same category:

> Revealing in this regard, the Court invokes an antiabortion shibboleth for which it concededly has no reliable evidence: Women who have abortions come to regret their choices, and consequently suffer from "[s]evere depression and loss of esteem." Because of women's fragile emotional state

Many argue that our society views women in stereotyped roles and that a pregnant woman's diminished rights are both created by and perpetuated through these stereotypes.[157] Our society defines a concept of motherhood, and women who do not conform to these expectations are deemed bad mothers.[158] Pregnant women who refuse medical treatment in our society are often viewed as immoral; their actions justify medical intervention.[159] Advocates for women's rights, however, believe that when the legal system permits a hospital to provide invasive treatment against a woman's will and for the benefit of an unborn child, the woman is demoted into a lower class of citizens.[160] She is valued chiefly because of the package she carries.

When competent adults are compelled to undergo invasive medical treatments, they lose, among other things, their autonomy. "Autonomy, understood as decisional privacy, is essential for a citizenship in the liberal state because it allows citizens to engage in the political and economic life of the nation."[161] A woman's autonomy should not be taken away when she decides to give birth to a child.

Major Inadequacies in the Current Legal System

Case law reveals a pattern of procedural inadequacies that amount to a thinly veiled attempt to satisfy due process requirements. Pregnant women who become involved in a hearing regarding court-ordered medical treatment often do not have any of the safeguards our legal system implements for the protection of rights.[162] One court has acknowledged that intrusions that implicate privacy and liberty "ought not to be lightly undertaken when the mother not only is precluded from conducting pre-trial discovery (to which she would be entitled as a matter of course in any controversy over even a modest amount of money) but also is in no position to prepare meaningfully for trial."[163] Even in the rare case where the court appoints an attorney for the pregnant woman, the counsel has only hours to prepare for representation.[164]

One court opinion stated that the hospital had established a procedure years earlier "to deal" with patients who do not wish to consent to medically necessary procedures.[165] The court noted, but did not address, the serious conflicts involved in the hospital's procedures. The hospital called its attorney, Mr. Buchanan, who contacted a state attorney charged with addressing issues of compelled medical treatment.[166] The state attorney

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> and because of the "bond of love the mother has for her child," the Court worries, doctors may withhold information about the nature of the intact D & E procedure. The solution the Court approves, then, is not to require doctors to inform women, accurately and adequately, of the different procedures and their attendant risks. . . . Instead, the Court deprives women of the right to make an autonomous choice, even at the expense of their safety.

Gonzales *v.* Carhart, 127 S.Ct. 1610, 1648-49 (2007) (Ginsburg, J., dissenting) (citations and footnotes omitted).

157. *See, e.g.*, Cherry, *Roe's Legacy*, *supra* note 59, at 740 (discussing "state-sanctioned mothering roles" and how they affect women who do not conform to traditional roles); Harris, *supra* note 58, at 136 (addressing the "cultural expectation that all women should be mothers" and cultural notions that a woman's behavior should reflect society's expectation).
158. Harris, *supra* note 58, at 136-37.
159. *Id.*
160. *See* Cherry, *Roe's Legacy*, *supra* note 59, at 742 ("Accordingly, when the state disregards women's pregnancy-related decision making, the state diminishes women's citizenship vis-à-vis men; consigning women to something less than full citizenship, which is forbidden by our current constitutional norms.")
161. Cherry, *Roe's Legacy*, *supra* note 59, at 745.
162. *See generally In re Fetus Brown*, 689 N.E.2d 397, 399 (Ill. Ct. App. 1997) (noting that the pregnant woman claimed that she was never served with notice of the hearing); *In re* Jamaica Hosp., 491 N.Y.S.2d 898 (N.Y. Sup. Ct. 1985) (mentioning the hospital counsel but not acknowledging any counsel appointed or retained by the pregnant woman).
163. *In re A.C.*, 573 A.2d 1235, 1248 (D.C. 1990); *see also* Gallagher, *supra* note 6, at 48-54 (discussing the "rampant" procedural shortcomings in compelled medical treatment cases).
164. *See, e.g.*, Jefferson v. Griffin Spalding County Hosp. Auth., 274 S.E.2d 457, 459 (Ga. 1981) (appointing counsel the same day of the court hearing).
165. *See* Pemberton v. Tallahassee Mem'l Reg'l Med. Ctr., Inc., 66 F. Supp. 2d 1247, 1249-50 (N.D. Fla. 1999).
166. *Id.* at 1249.

"deputized Mr. Buchanan as a special assistant state attorney for purposes of dealing with this matter."[167] Mr. Buchanan, the hospital's attorney, then represented the state of Florida in the hearing.[168] The court seemed to ignore the conflicts of interest that are implicated by a hospital attorney posing as an agent of the state. It is questionable whether a hospital attorney could reconcile the duties he or she owes to the hospital and its doctors with the state's interests. An in-house attorney may be more concerned with protecting the hospital and its doctors from medical malpractice. Alternatively, a state attorney is devoted to advocating on behalf the State of Florida, which includes an interest in the fetus as well as an interest in protecting the rights of the mother, a resident of the state.

In another distressing case, *In re A.C.*, the court did not call the doctor who had treated the mother for many years to testify.[169] The mother's longtime physician later testified that, had he been called before the court during the emergency hearing, he would have testified that the treatment was "medically inadvisable" for both the pregnant woman and her unborn child.[170] After the treating emergency room physician testified that the procedure was necessary, the court agreed and ordered a cesarean section.[171] The child died two hours after the procedure and the mother died two days later.[172]

The outcome of the *In re A.C.* case elicits deep concerns that in emergency hearings, the court will frequently defer to the testifying doctor's opinion.[173] Legal scholar Lisa Ikemoto fears that "judges listen to doctors because they are usually also male professionals and therefore presumptively rational."[174] Ikemoto worries that the pregnant woman's opinion is discounted because of what judges perceive as irrational emotions.[175]

It is evident that certain groups have a higher risk of being involved in court hearings regarding medical treatment.[176] One older study revealed that forty-four percent of the women involved in court cases were unmarried.[177] A survey of obstetricians showed that out of twenty-one petitions for court-ordered treatment, seventeen were sought against Asian, Black, or Hispanic women.[178] All twenty-one women involved in the petitions were either being treated in public hospitals or were receiving public assistance.[179] Doctors have almost complete discretion in deciding against whom to initiate a court proceeding to compel treatment.[180] There may be several different rationales underlying a physician's initiation of a court proceeding to compel treatment against a minority more frequently. There may be a language barrier present. It is possible that the pregnant woman holds a unique religious view that is difficult to comprehend. Perhaps there are other cultural barriers

167. *Id.* at 1250.
168. *Id.*
169. *In re A.C.*, 573 A.2d 1235, 1248 (D.C. 1990).
170. *Id.*
171. *Id.* at 1253.
172. *Id.* at 1238.
173. *See* Ikemoto, *supra* note 42, at 500-07.
174. *Id.* at 502.
175. *Id.* The author even notes that one court called the patient "angry and uncooperative." *Id.* Another court speculates that the patient's refusal to consent to surgery was the result of guilt because of an unplanned pregnancy. *Id.* Ikemoto expresses concern that courts are "applying the stereotype—that pregnant women are subject to the whims of their ever-changing hormonal imbalance and are incapable of knowing their own minds, or that they are morally culpable." *Id.* at 504.
176. *See, e.g., id.* at 510-16 (citing statistics that support the inference that doctors are more likely to seek court orders to compel medical treatment against minority races and religions).
177. *Id.* at 506-07 ("The published cases suggest that a court probably would honor only an unmarried woman's right to refuse medical treatment if her doctor concurred.").
178. *Id.* at 510.
179. *Id.*
180. *Id.* at 507.

or stigmas at work. Regardless of the rationale, it is problematic that the doctors who initiate the court action disproportionately against certain groups are the same doctors to whom judges tend to defer in their holdings.

Possible Solutions

> But the strongest of all the arguments against the interference of the public with purely personal conduct is that, when it does interfere, the odds are that it interferes wrongly and in the wrong place.[181]

Courts will continue to be presented with cases involving compelled medical treatment of pregnant women. It is evident that courts and judges dislike these cases. A close examination of case law reveals that judges try to shuffle the case out of their court, citing a lack of jurisdiction or another technicality.[182] Rather than attempting to avoid the issue, courts should be proactive in anticipating such issues and resolving them quickly and fairly, so as not to "interfere[] wrongly and in the wrong place."[183]

In almost every scenario involving compelled medical treatment, time is a great concern. By anticipating the issue in advance, courts may assure that all aspects of compelled treatment will be considered. Of course, fact scenarios will differ from case to case, but if the court has a settled procedure that has been carefully planned by individuals representing all competing interests, fewer injustices would result. The balancing test should not be one that is formulated during an emergency situation. Hospitals, representatives of the state, and representatives for women's rights should work together to formulate an adequate procedure to implement when these conflicts arise.

A knowledgeable judiciary is essential to excluding personal beliefs from the equation and focusing on the actual legal issues. Judges should be made aware that these cases tend to disproportionately affect certain groups of women; thus, a judge may feel it necessary to call other knowledgeable doctors to assure an unbiased hearing on the risk of refusing treatment. Judges may even determine that it is necessary to enact a policy that *always* solicits an unbiased doctor's opinion. Testimony from an unbiased doctor could expose impure motives of the physician initiating the order, since the initiating physician may be attempting to inappropriately reduce his or her malpractice liability.

A clear and appropriate burden of proof should be established for court hearings regarding an order to compel medical treatment. Professor Finer has suggested that doctors must bear the burden of establishing "that the fetus will die or suffer severe lifetime handicaps unless there is surgical intervention, and that the mother was warned of all the risks, alternatives, and material attendant circumstances, including the dire risk to the fetus if the surgery is not performed."[184] Additionally, Finer suggests that the doctor meet a clear and convincing evidence standard.[185] This heightened standard may cause judges to be more cautious before allowing a bodily invasion. With compelled medical treatment in an emergency setting, an appeal will not rectify the invasion the patient has already suffered. A heightened standard of proof should cause judges to pause and contemplate the permanency of their decisions.

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181. Mill, *supra* note 1, at 102.
182. *See Jefferson v. Griffin Spalding Hosp. Auth*, 274 S.E.2d 457, 459 (Ga. 1981); *In re* Baby Boy Doe, 632 N.E.2d 326, 327 (Ill. App. Ct. 1994); *In re* Fetus Brown, 689 N.E.2d 397, 399 (Ill. App. Ct. 1992).
183. Mill, *supra* note 1, at 102.
184. Finer, *supra* note 59, at 280.
185. *Id.* at 281. Finer argues that because doctors will often disagree about the necessity of particular medical treatment, a higher evidentiary standard is necessary. *Id.* He states, "Thus, courts must follow the dictates of the mother absent an abiding conviction of the high risk of fetal death or severe impairment." *Id.*

Regardless of what burdens and standards courts decide to use, the judiciary should contemplate these fundamental procedural aspects of a court hearing. Recent court opinions regarding compelled medical treatment have been almost completely devoid of any semblance of judicial process, including what standard of proof applies. Judges must establish the necessary standards of proof and burdens; in court opinions, judges must show evidence that they actually applied the appropriate legal theories in each particular court hearing. Further, the court hearing should attempt to adhere to procedural safeguards as closely as possible, including providing adequate notice to both the pregnant woman and her husband. Adequate notice in an emergency setting might necessarily be only twenty-four hours of advance warning, but some semblance of procedural due process must be present even in such a rushed setting.

The medical community has a responsibility to continue to educate doctors about the concerns involved with compelled medical treatment, as well as the option of legal intervention. In school, medical students should learn the basic constitutional rights of individuals, including the right to reject medical treatment. Once state legal systems formulate a process by which a court order can be obtained for medical treatment, doctors should be fully briefed on how to properly utilize the system.

I propose that compelled medical treatment be a subject of Continuing Legal Education programs that individual states offer to practicing attorneys. Since each state has a different state constitution, the training would be necessarily tailored according to the individual state's legal framework. The states should ensure that their training does not abridge any of the rights that Americans are guaranteed under the Constitution. The training should focus on the constitutional rights of the pregnant woman in conjunction with the state's policy for acting on behalf of the viable fetus.

Additionally, I propose that states compile a list of attorneys willing to represent pregnant women who are called into an emergency court hearing where an order of medical treatment is requested. Legal representation will aid in ensuring that her rights are not overlooked. Because a certain demographic has been historically targeted as the subject of these court hearings, attorneys must be prepared to represent the pregnant woman on a pro bono basis.

Ultimately, the burden rests with society. Society should treat pregnant women the same way we treat all American citizens. They should be afforded the same rights. A pregnant woman is carrying an important gift that will benefit society, but she is much more than the chauffer of this gift. "[S]ociety's relationship to the fetus must be mediated by the woman within whose body it is."[186] Some of the rights that a pregnant woman has might conflict with those of the state in protecting the viable fetus. Our legal system should be prepared to address such conflicts and balance the competing rights. ◆

186. Gallagher, *supra* note 6, at 13.

United States Oil Dependency: *An Overview of the Desperate Times that have Imprisoned Our Foreign Policy and the Desperate Measures that May Be Required to Liberate it.*

Lauren E. Sutterfield[1]

Introduction

As the United States continues to increase the amount of oil that it imports, it is important to recognize the sources of this energy and the situations surrounding its acquisition. In dealing with petroleum exporting countries, the first priority of our government is to maintain national security. National security and energy security have become progressively more interconnected. "Energy security does not stand by itself but is lodged in the larger relations among nations and how they interact with one another" (Yergin, 2006). Thus, energy security critically impacts our foreign policies. This article begins by analyzing the importance of oil and the sources from which the United States secures this precious resource. I will then review case studies regarding foreign policy and oil. Finally, I will conclude with recommendations to alleviate our growing problem with respect to our increasing dependence on oil.

The Importance of Oil

> *"No nation which lacks a sure supply of liquid fuel can hope to maintain a position of leadership among the peoples of the world. It follows that if the United States is to hold the place it now occupies on the world stage as an effective leader, . . . it must develop a national petroleum policy which will make certain that we shall not become dependent upon any other country for our supply of liquid fuel"* (Klebanoff, 1974, p. vi).

According to the United States Department of Energy, "oil is the lifeblood of America's economy." It is "the basis and the moving power of modern industrial society and is therefore indispensable" (Klebanoff, 1974, p. vii). Unfortunately, oil is a non-renewable resource—and new reserves are difficult and expensive to discover and develop. "60 percent of the Earth's surface" does not have "potential [to become a] source for oil" (Deffeyes, 2001, p. 102). Although geologists have gained considerable knowledge into finding new sources of oil, nine out of ten exploration wells are dry (Deffeyes, 2001, p. 67). The cost of drilling a new well is only half of the expense—the process of preparing the well for production is equally expensive (Deffeyes, 2001, p. 102).

Many of the world's oil fields have already been more than halfway exploitated, which leads to a substantial increase in production costs (Woolsey, 2004). Also, as exploration is pushed further out to sea, the expense increases drastically. "The most powerful stimulant for finding more oil would be a reduction in drilling costs" (Deffeyes, 2001, p. 8). In addition to the cost of production, the capacity to refine crude oil constrains supply (Yergin, 2006).

However, the world is not yet running out of oil. In the last twenty-five years, there has been a 70% increase in known oil reserves. This is due in large part to increased technology in discovering oil fields, the capability to remove more oil from a field, and the incentive of higher prices for discovery. "The amount of oil available is not simply a function of geology, but also of economics, technology and politics" (Kretzman, 2003).

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However, the United States has mature oil fields, thus production costs are often higher than in foreign countries, particularly those in the Middle East. "The major obstacle to the development of new supplies is not geology but what happens above ground: namely, international affairs, politics, decision-making by governments, and energy investment and new technological development" (Yergin, 2006). Essentially, society should move away from energy dependence long before depletion of global oil resources becomes a reality.

This may be difficult because oil is currently responsible for supplying more than 40% of total U.S. energy demands and almost 100% of our transportation fuels (United States Department of Energy, 2006). Of the approximately 20 million barrels per day (mbd) of oil consumed nationally, only 40% is domestically produced (National Energy Policy Development Group [NEPDG], 2001, p. 1-1). Over the past ten years, America has increasingly relied upon imports to meet its greater energy demands (NIEPDG, 2001, p. 1-1). The United States has been a net importer of petroleum since the 1950s; however, our import dependence has drastically increased over the last twenty years due to higher demand accompanied by relatively low prices for much of this period. The Organization of Petroleum Exporting Countries (OPEC) provides 42.2% of these imports and non-OPEC countries supply 57.8% ("Where We Stand," 2005). This deficit necessitates delivery to the U.S. of 2.1 million barrels per day and approximately 770 million barrels per year in a petroleum-importing enterprise requiring 477 foreign tankers and 64 U.S. flag tankers (NEPDG, 2001, p. 7-15). The United States consumes 25% of the global oil supply, yet it possesses only 3% of world oil reserves (Gal, 2005, p. 1). Moreover, analysts project that by the year 2020, this current oil deficit will expand substantially as domestic oil production declines from 5.8 to 5.1 mbd while domestic consumption rises from 20 to 25.8 mbd (NEPDG, 2001, p. 1-13).

The economics of oil significantly impacts the United States. "Every economic recession in the past 40 years has been preceded by a significant increase in oil prices" (Wirth, Gray, & Podesta, 2003). Since 1997, the price of energy as a share of GDP has tripled (Bergsten, 2004). Federal and state taxes constitute about 30% of the price of gasoline, refining costs, and profits account for 16% of the cost and 13% goes to distribution and marketing expenses (United States Embassy Italy, 2002). According to President George W. Bush, U.S. dependence on foreign oil acts as a "foreign tax on the American people" (Luft, 2005, p. 2). Imported oil accounts for a quarter of America's trade deficit (Luft, 2005, p. 2), and it is estimated that our dependence on oil costs the United States approximately $300 billion per year (Collina, 2005, p. 5).

Further complicating the issue, America is vulnerable to oil supply disruptions because the global supply of oil is concentrated geographically. According to the 2001 Report of the National Energy Policy Development Group, two-thirds of proven oil reserves are located in the Middle East (NEPDG, 2001, p. 1-12). Elsewhere, "Central and South America account for 9 percent; Africa, 7 percent; North America, 5 percent; Eastern Europe and the former Soviet Union, 5 percent; the rest of Asia, 4 percent; and Western Europe, 2 percent" (NEPDG, 2001, p. 1-12). Effectively, this geographic concentration of oil also funnels the power to control energy in the hands of a few producers. Many of these leading countries in world oil production are either ruled by unstable governments or maintain adversarial relationships with the United States (Luft, 2005, p. 4). U.S. dependency on these countries for oil endangers our national security. "U.S. dependence on oil leaves the country's economic, security, and environmental destiny to forces beyond America's control" (Wirth et al., 2003). In 1976, President Carter's secretary of defense, Harold Brown, declared, "there is no more serious threat to the long-term security of the United States and to its allies than that which stems from the growing deficiency of secure and assured energy resources" (Kretzman, 2003). Twenty years later, this threat has only intensified, proving that it is therefore imperative that the U.S. government establish energy security as a priority in our national security agenda.

Governments in the United States and Western Europe first realized the importance of oil in the 1910s, when their navies converted from coal to oil. Other military branches quickly followed suit, and shortly thereafter oil was integrated into industrial society (Hahn, 2005, p. 2). In the early twentieth century, "private American corporations accumulated commercial interests in the Middle East, especially in the emerging petroleum industry" (Hahn, 2005, p. 2). The United States became a net importer of oil in the 1950s, and subsequently our nation has depended on foreign countries, particularly the Middle East, to supply our energy needs. As long as the United States remains dependent on the Persian Gulf for oil, U.S. national security will depend on Middle Eastern countries (Kretzman, 2003). Consequently, our international relations and foreign policy towards this region is particularly significant.

United States Foreign Policy and Oil

> *"Over-dependence on any one source of energy, especially a foreign source leaves us vulnerable to price shocks, supply interruptions, and in the worst case, blackmail."*—
> President George W. Bush, 2001 (Klare, 2004b)

Over the tumultuous latter decades of the Twentieth century, numerous factors have influenced U.S. oil policy formation: a series of crises in Iran, culminating in the Iranian revolution during the Carter administration; two wars against Iraq; America's intervention in Afghanistan; the ongoing Arab-Israeli conflict; political instability in important exporting countries such as Saudi Arabia and Venezuela; the trend in Latin America toward trade and investment liberalization during the 1990s; and the threats of terrorism since September 11, 2001 (Randall, 2005, p. vii). Realizing the importance of oil, the United States has formulated policies aimed at obtaining oil, maintaining stable prices, and pursuing investment by U.S. oil companies abroad. "In terms of long-range goals, U.S. international oil policy shows a remarkable continuity. When it comes to the means through which the United States attempted to achieve these aims, however, incoherence evidently is a more fitting characteristic" (Bull-Berg, 1987, p. 7). In order to effectively engage exporting countries, the United States integrated its energy and foreign policies. "One of the major dilemmas in attempting to assess and trace the evolution of foreign oil policy is to determine the relationship of oil to other factors in foreign policy" (Randall, 2005, p. 2). This article will assess those portions of U.S. foreign policy since World War II which correlate with U.S. oil interests. In evaluating the multifactoral process of policy formation, this assessment of United States foreign relations hypothesizes that oil is an important factor, but not always the definitive factor, in developing foreign policy.

By the early Cold War, the fundamentals of U.S. foreign oil policy were well established (Randall, 2005, p. 0). As oil became critical for the militaries of the world and the Cold War intensified, the State Department realized the strategic value of oil and accordingly established defense alliances (Klebanoff, 1974, p. 96). By "linking foreign trade with the U.S. military posture, . . . , the petroleum industry was singled out in view of its great commercial and industrial as well as military possibilities" (Klebanoff, 1974, p. 96). The government believed that establishing trade relationships with countries, especially in regions where Soviet expansion was a concern, would benefit the bolstering alliances. The tactical importance of the Middle East increased as the West attempted to contain Soviet influence in Europe and Asia (Hahn, 2005, p. 7).

"The Gulf's significance increased greatly during the cold war due to the prevalence of oil in the region. A broad U.S. policy of maintaining stability in the Gulf emerged so as to ensure the easy access to and safe transport of oil from the region while keeping the Soviets at bay" (Lesch, 2003, p. 311). The United States

intended to use these resources to stimulate the economic restoration and renewal of post-WWII Japan and Europe. The government also planned to use Middle East petroleum as oil reserves in case of international emergency (Hahn, 2005, p. 7). The region's balance was maintained through Iran's strength and the wealth of Saudi Arabia (Lesch, 2003, p. 311).

According to Robert Ebel, Chairman of the Center for Strategic and International Studies Energy Program, the United States energy security policy has four features:

(1) promoting development of diverse energy supplies; (2) at times encouraging efficiency, conservation, and alternative sources of energy; (3) the establishment of the strategic petroleum reserve and sharing information through the International Energy Agency; and (4) depending on Saudi Arabia to moderate price and supply instability (2006). Additionally, we have at times "been moved to call on America's military to defend facilities, protect transit routes and secure inhospitable areas" (Ebel, 2006). Two strategic interests that the United States has in relation to the Persian Gulf are, first, preventing countries unfriendly to the United States from controlling petroleum resources and the Strait of Hormuz and, second, guaranteeing access to the energy reserves in the Gulf by the United States and our allies (Lesch, 2003, pp. 406-407). Problematically for U.S. foreign and energy policy, many of the energy sources in the Middle East are unreliable or unstable. "The vast oil wealth of the Persian Gulf is a key dimension of geopolitics in the Middle East and an emblematic prize of so called 'resource wars'" (Le Billion & El Khatib, 2004, p. 109).

Many analysts argue that since Franklin Roosevelt met with Saudi King Abdul Aziz ibn Saud in 1945, United States foreign policy has acquiesced to our oil dependence. These commentators feel that American values were compromised in exchange for indulging foreign leaders who control vast hydrocarbon resources, even if the leaders were oppressive tyrannical rulers (Luft, 2005, p. 1). "The flow of funds to certain oil-producing states has financed widespread corruption, perpetuated repressive regimes, funded radical anti-American fundamentalism, and fed hatreds that derive from rigid rule and stark contrasts between rich and poor" (Le Billion & El Khatib, 2004, p. 109). The United States oil vulnerability keeps our foreign policy indebted to a handful of exporting countries and, in order to meet increasing demand, we will at times be forced to militarily intervene in the region (Bergsten, 2004).

The oil exporting countries receive profits for selling their petroleum resources called "petrodollars." As oil prices rise, these profits find their way to "the jihadists committed to America's destruction as [they] trickle their way through charities and government handouts to madrassas and mosques, as well as outright support of terrorist groups" (Luft, 2005, p. 2). This undermines the strategic relationship the United States has with the oil producers in the Persian Gulf. Some Middle East nations are accused of sponsoring or being allied with radical Islamists who conspire against the United States. "Petrodollars . . . have been used to sponsor terrorism, produce weapons of mass destruction and build schools preaching hatred of America and its values" (Luft, 2003).

Yet another problem of oil dependence is protecting United States interests and investments abroad. Foreign policy must reflect our intentions to maintain foreign assets and our willingness to defend pipelines, tanker fleets, and U.S. companies operating abroad. A robust foreign policy would "strive to deny a potential enemy access to the foreign oil, and it will do everything in its power to assure access to friends" (Klebanoff, 1974, p. vii). However, the presence of the U.S. military in the Persian Gulf is not generally welcomed, creating resentment by the population and possibly inciting more terrorist attacks (Collina, 2005, p. 4). One method of involvement has included providing friendly countries with arms in order to defend themselves. "Providing the regimes in question with sophisticated weapons may be good for the oil importers' balance of payments, but it does not necessarily do much for security, especially as the weapons may fall into the wrong hands" or a regime change empowers a hostile government (Houthakker, 1981, p. 320). It costs nearly $60 billion per

year to sustain the United States' military presence in the Persian Gulf alone. Meanwhile, "outside the United States the view is growing that assuring the flow of oil does not require a significant military strategy" (Shibley, 2002). Additionally, the United States places itself at greater risk of involvement in local conflicts by intruding in the affairs of petroleum exporting countries (Klare, 2004b).

President Jimmy Carter announced in 1980 "that the secure flow of oil from the Persian Gulf was in 'the vital interests of the United States of America' and that America would use 'any means necessary, including military force' to protect those interests from outside forces" (Collina, 2005, p. 3). The Carter Doctrine has remained the basis for military involvement in oil foreign policy to this day. As a result, the U.S. has attempted to use the military to address oil vulnerability through measures to support or install friendly governments. Soon after the declaration of the Carter Doctrine, the U.S. formed the Rapid Deployment Joint Task Force (RDJTF), indicating that the government will assert the use of force on the basis of the doctrine . The RDJTF later became U.S. Central Command (USCENTCOM). The deployment of U.S. military forces in the Middle East, an area not covered by NATO, correlates closely to the presence of oil in the region (Kretzman, 2003). "U.S. policy with regard to the protection of Persian Gulf energy supplies is unambiguous: When a threat arises, the United States will use whatever means are necessary to ensure the continued flow of oil" (Klare, 2004b).

A unique relationship exists between the three parties involved in the "oil triangle": the United States, the international oil companies, and the governments of the oil exporting nations. At various times during the history of this relationship each has had supremacy over the others. The United States wants to ensure access to plentiful oil at a reasonable and stable price and to advance foreign policy objectives such as human rights and strategic political issues. The oil companies want to increase their shares in foreign oil investments, essentially increasing their profits. They want protection from the U.S. government, and they want the U.S. government to create foreign policy in compliance with their host oil exporting countries. Conversely, the oil exporting nations want to control their natural resource and to maximize profits from the sale of oil. They also want to use their energy power to pressure importing countries to adopt foreign policies which would benefit them, and they want to utilize the abilities of oil companies without granting them additional authority. This unique relationship constantly evolves, making a determination of which party wields the most control a matter of perception. One observation is that "foreign oil policy could be, and indeed generally was, remarkably successful as long as the strategic objectives of state planners and the profit motives of the companies coincided" (Randall, 2005, p. 1)

Former Department of Energy Secretary Spencer Abraham proclaimed that "the Bush administration is committed to ensuring that U.S. energy needs are not held hostage by politically unstable foreign suppliers" (United States Embassy Italy, 2002). Accordingly, the United States refuses to submit to oil exporting countries. Even some of the most conservative administrations (who typically favor oil interests) have chosen foreign policies at the expense of the oil industry—such as containment of the Soviet Union as opposed to oil industry investment in the country. "Aspects of Bush's energy plan suggest that even this administration will not break the give-and-take pattern" (Cave, 2001). American antitrust laws have been problematic to oil companies, indicating that the oil industry has lost some power over time. These laws prevent the companies from establishing monopolies abroad and prevent the U.S. government from providing political advice to private corporations (Randall, 2005, p. 272). Also, unlike other oil importing countries, the United States prohibits oil companies from conducting business with some of the world's worst human rights violators, such as Iran. Therefore, "in the global contest for oil the U.S. loses ground as a result of its pressure for government reform" (Luft, 2005, p. 4). However, as oil demand increases and domestic oil expires, petroleum interests in the United States may take precedence over other political objectives in foriegn policy decisions with oil exporting countries.

United States Oil Suppliers Outside of the Middle East

Although the focus of this paper is on United States foreign oil policy in relation to the Middle East, the United States relies on a variety of sources for its petroleum supply. Accordingly, before evaluating the specific Persian Gulf cases, I would be remiss not to mention some of the important suppliers of United States oil outside the Middle East.

While the Persian Gulf is important to the United States because of its immense proven reserves, Canada is actually the leading supplier of oil to the United States. In 2000, 15% of oil imports came from our northern neighbor (NEPDG, 2001, p. 8-4). The United States has placed considerable attention on regional sources and greater importance on strengthening relationships with oil exporters within the western hemisphere. Canada has considerable heavy oil sands reserves which are critical in providing oil for the New England states."The Bush administration is moving in a new direction by building a stronger partnership with Canada and Mexico. A major undertaking in this area, the North American Energy Initiative, aims at developing policies to enhance energy security, trade and interconnections between the three countries" (United States Embassy Italy, 2002).

Mexico accounted for 12% of U.S. oil imports in 2000. It also holds approximately 25% more proven reserves than the Untied States (NEPDG, 2001, p. 8-4). Major increases in Latin American oil output, however, are blocked by regulatory, political, and environmental barriers. In Mexico,"foreign oil interests were expropriated in favor of the national oil company, Pemex" in 1938 (Houthakker, 1981, p. 32). Mexico and Venezuela "have placed their energy reserves under state control, establishing strong legal barriers to foreign involvement in domestic oil production" (Klare, 2004a). However, the United States is encouraging Mexico to open investments to America's private sector where possible.

Venezuela provided 14% of United States oil imports in 2000. It is America's third largest oil supplier and the fifth largest global oil exporter (NEPDG, 2001, p. 8-10). The United States continues to pursue investments in Venezuela's oil sector and to encourage bilateral trade arrangements. It has the benefit (as do Mexico and Canada) of being geographically close to the United States and the advantage of significant oil reserves.

In the 1970s, the United States modified its oil import program under the Nixon administration to eliminate any discrimination against Venezuela in its foreign oil policy. "The modification of policy was intended in part to strengthen U.S. petroleum trade with Venezuela and the other Latin American countries" (Randall, 2005, p. 285). This policy shift was effective, which was evident when Venezuela notably refrained from participating in the 1973 oil embargo against the United States. However, because Venezuela's oil company is a state-owned entity,, it is susceptible to corruption and manipulation. In late 2002 and early 2003, a general strike in Venezuela "severely constricted the flow of oil and gasoline for several months" and prevented around 200 million barrels of petroleum from reaching the global oil markets (Billig, 2004, pp. 2-7). This crisis was a hurdle in the U.S. attempt to diversify sources away from the Middle East because Venezuela is an essential component to Washington's goals of diversification and hemispheric oil cooperation. The United States aggravated this relationship in 2002 when the U.S. government hastily supported an interim government in Venezuela when President Hugo Chavez was briefly removed from office. Despite escalated tensions upon Chavez's return to power, America attempts to maintain a strong trading relationship with Venezuela.

Colombia, which continues to develop its oil production capabilities, is the seventh largest importer to the United States (NEPDG, 2001, p. 8-4). The Bush administration apportioned $98 million in 2002 for the deployment of Special Forces troops to Colombia who were commissioned to "train a 'Critical Infrastructure Brigade' of Colombians for the explicit purpose of protecting an Occidental Petroleum pipeline" (Kretzman, 2003). Speculation also surrounds U.S. involvement in the civil war in Colombia as being motivated by the country's oil resources.

Africa is also important to the United States' efforts to diversify petroleum sources. Sub-Saharan Africa holds 7% of proven world oil reserves, and Nigeria is the fifth largest exporter to the United States (NEPDG, 2001, p. 8-4). Because West Africa is expected to serve as a growing source of oil to the United States, the United States encourages investment in Africa to develop production capacities. However, political instability is a problem in many African countries rich with oil resources.

Outside of OPEC, Russia is the world's largest oil exporter, second in total global exports to Saudi Arabia (Barnes, Jaffe, & Morse, 2003). Russia holds 5% of the world's oil reserves and is the world's third largest oil producer (NEPDG, 2001, p. 8-13). "U.S.—Russian cooperation on energy in general and oil in particular has been high on the agenda of Bush-Putin summits that began in the summer of 2001 and culminated in the creation of a U.S.-Russian Energy Dialogue" (Barnes et al.). Russia has opened the energy sector to foreign investment, and production is predicted to continue increasing.

The U.S. has encouraged reform in Russia over "the state oil pipeline monopoly Transneft and its pipeline sector, but reform is slow in coming" (Barnes et al., 2003). Russia has increasingly become an important exporter to America's European allies. An increase in Russian oil production would summarily benefit all importing countries by reducing the share of OPEC oil in the market. Continued discussions and stronger partnerships are expected between Washington and Moscow concerning Russia's petroleum resources and the increased development of production capabilities.

The United States has increased its interest in the Caspian region as an alternative source of energy. The U.S. has worked closely with the region to develop commercially viable export routes for its oil supply. The United States was "reluctant to see Caspian oil flow through Russia on its way to Western Europe, since that would allow Moscow a degree of control over Western energy supplies. Transport through Iran was prohibited by U.S. law" (Klare, 2004a). The result was a plan to develop a pipeline from Baku in Azerbaijan to Ceyhan in Turkey through Tbilisi in the former Soviet republic of Georgia. The United States "has a strategic interest" in the construction of the Baku-Tbilisi-Ceyhan (BTC) oil pipeline "because diversification of both energy supplies and export routes will benefit both" the Caspian countries and "the energy security of the Western world" (Gvosdev, 2003).

"The major problem facing the United States is that the Caspian basin is no more stable than the Persian Gulf" (Klare, 2004a). The Caspian countries have a history of political instability and are susceptible to corruption and government manipulation in the oil sector. Because they do not have an adequate legal or economic framework for the oil industry, these countries must address serious internal structural issues before these nations can substantially increase oil production.

"The [Clinton] administration initiated a number of military assistance programs aimed at strengthening their internal security capabilities. This entailed providing arms and training along with conducting joint exercises" (Klare, 2004a). The United States has provided Caspian countries support for the War on Terror and military assistance to increase their security since September 11, 2001. The U.S. government has actively worked to secure possible pipeline routes to export petroleum from the region. In 2001, Washington promised over $4 million in military aid to Azerbaijan for to fight terrorism. The Azerbaijani president stated, "guaranteeing the security of the Baku-Tblisi-Ceyhan and the Baku-Tblisi-Erzurum oil and gas pipelines is an integral part of our struggle against terrorism" (Kretzman, 2003, p. 5). The U.S. also promised $64 million to Georgia in 2001 for military support. In addition, the United States pledged to dispatch 180 Special Forces advisors to train up to 2,000 Georgians in anti-terrorism techniques; this training might include protection and security for the BTC pipeline (Kretzman, 2003, p. 5).

Foreign Policy Divergence from Oil Interests

The US oil objectives have "frequently conflicted with other US foreign policy interests. The greater need for oil in the future is at odds with some of the US-driven policies towards 'rogue' petro-states" (LeBillion & El Khatib, 2004, p. 126). In some distinct cases the United States foreign policy goes directly against what would benefit U.S. oil companies and the United States' acquisition of foreign oil. "Sanctions—imposed notably by the US on Iran, Libya, or Sudan— . . . reflect the fact that energy policy and business interests are not the only factors in determining foreign policy towards oil-producing states" (LeBillion and El Khatib, 2004, p. 113). Sanctions throughout history have resulted in significant profit losses for oil companies and have considerably cut the amount of oil available for import to the United States.

United States foreign policy towards Israel is the most definitive case of political policy factors taking precedence over oil dependence. Washington has continuously supported Israel in its defense against Arab countries (many of which are major oil exporting nations). As a result, the United States has at times suffered extreme economic losses and been subject to embargoes. The pro-Israeli position has been an area of contention with Arab producing nations. U.S. oil companies have even lobbied on behalf of the Arab position in disputes with Israel in order to improve their standing with these petroleum producers. Yet, the United States has remained steadfast in support of Israel. If this condition changes, one factor in the transformation might be that "the stability of the oil area is acquiring greater importance for U.S. strategic interests as Israel's strategic value as an anti-Soviet bulwark in the Middle East becomes less relevant" (Lesch, 2003, p. 279). Washington is compelled to energetically pursue a resolution to the Arab-Israeli conflict that will satisfy both sides. A resolution to the Arab-Israeli problem will alleviate pressures from the Middle Eastern oil exporters and will improve Washington's reputation in the region.

Case Studies

As discussed, the Middle East contains approximately two-thirds of the world's proven oil reserves, making the Persian Gulf region crucially important for the United States. The following three case studies illustrate the nexus of oil and foreign policy in the Middle East. These examples will illustrate the relationship between Washington and Middle Eastern petroleum exporting countries. The case studies are noteworthy, but they are limited and do not intend to disregard other Middle Eastern countries with significant oil resources.

Saudi Arabia

> *"Persian Oil . . . is yours. We share the oil of Iraq and Kuwait. As for Saudi Arabian oil, it's ours."*—President Roosevelt to British Ambassador, 1944 (Yergin, 1991, p. 401)

Saudi Arabia currently supplies approximately 14% of U.S. oil imports and nearly 8% of total U.S. demand, making it the second largest importer to the United States.

> Saudi Arabia holds just over one quarter of all the oil in the world. Saudi Arabia has proven reserves of 264 billion barrels of oil, and possible reserves that are estimated by the U.S. Energy Information Administration to be as high as one trillion barrels. The Saudis have the world's largest production capacity and the largest excess production capacity (Kretzman, 2003, p. 3).

Daily, Saudi Arabia produces around 8 million barrels of crude oil. Not only is Saudi oil important to the United States and the global market, oil is an important factor within the kingdom. Oil profits account for 90-95 % of Saudi Arabia's total export earnings; oil revenues make up 35-40 % of the kingdom's GDP; and they comprise 70 % of state revenues (Le Billion & El Khatib, 2004, p. 119).

Despite its involvement in the 1973 oil embargo, Saudi Arabia is consistently among the most reliable exporters. Saudi Arabia is the most plentiful, dependable, and secure source of oil in the Middle East and the world (Ebel, 2005, p. 2). "For these reasons, the oil market revolves around Saudi Arabia. For U.S. geopolitical strategists, this dependence on Saudi Arabia is a major vulnerability which fundamentally shapes U.S. military policy" (Kretzman, 2003, p. 3).

As oil gained importance in the U.S. economy, "Saudi Arabia became the dominant focus of American policymakers" (Yergin, 1991, p. 427). The relationship between Washington and Riyadh dates back to World War II, when in 1943, President Franklin D. Roosevelt declared Saudi Arabia to be a vital interest to the United States; thus Saudi Arabia qualified for assistance through the Lend-Lease program (Hahn, 2005, p. 10). Then, in 1945, the President "forged an agreement with Abdul-Aziz ibn Saud, the founder of the modern Saudi dynasty, to protect the royal family against its internal and external enemies in return for privileged access to Saudi oil" (Klare, 2004a). After this arrangement, the United States could assert a principle position in the Middle East. Then, in 1950, the United States agreed to the 50-50 deal with Saudi Arabia, granting the Saudi king a greater share of the Arabian American Oil Company's (Aramco) revenues in order to secure the flow of oil (Hahn, 2005, p. 10). The State Department "was a strong proponent of meeting Saudi demands" (Yergin, 1991, p. 446). Roosevelt's promise still stands, and "the use of military power to protect the flow of oil has been a central tenet of U.S. foreign policy since 1945" (Collina, 2005, p. 3). This agreement largely governs our relations with Saudi Arabia to this day.

The 1973 oil embargo on the United States by the Organization of Arab Petroleum Exporting Countries (OAPEC) complicated the relationship with Saudi Arabia. It was important to the United States that the largest oil producer not participate in embargoes against the U.S. The brief confrontation between the United States and Saudi Arabia, however, ended quickly. In early 1974, before the embargo was formally lifted, the United States and Saudi Arabia negotiated a bilateral agreement to end the kingdom's participation in the embargo (Bull-Berg, 1987, p. 58). As a result of the embargo, the increase in oil prices made Saudi Arabia even more critical to policymakers in Washington. The United States' position in Saudi Arabia was bolstered because of its economic importance. The U.S. was not only a large consumer of Saudi oil, but it was an ideal location for Saudi oil revenues. "Saudi petrodollars were recycled through U.S. . . . banks, the Saudi government became a major purchaser of U.S. Treasury bonds, and Saudi private wealth found investment opportunities in the United States" (Lesch, 2003, pp. 362-363).

"The new oil wealth deepened the Saudi linkages to the United States" (Lesch, 2003, p. 362). Saudi Arabia bought the majority of its arms from the United States and used U.S. training missions to train Saudi troops in the new weaponry. Additionally, the U.S. Army Corps of Engineers completed large building projects throughout Saudi Arabia. As its oil wealth and proven reserves increased, the kingdom realized the importance of the United States as an outside guardian. Saudi Arabia requested that the United States exhibit its military commitment to the kingdom in 1979. The Iranian revolution was developing nearby, and Saudi royalty feared a similar rebellion. The United States responded by sending a squadron of F-15s as a military display. A year later the Iran-Iraq war broke out, and in October 1980, "U.S. AWACS (airborne warning and control system) aircraft were dispatched to the kingdom to strengthen its air defenses" (Lesch, 2003, p. 362). During this war, Iran attacked both Saudi and Kuwaiti oil tankers and shipping vessels. The United States

reacted by sending naval ships to the Gulf in 1987 to protect our allies (Lesch, 2003, p. 362). Finally, the U.S. urgently sent troops to protect the kingdom when Iraq invaded Kuwait in 1990.

The flow of money from American pockets to Saudi Arabia and U.S. military presence in the region does not always benefit the United States. "It is widely accepted that Saudi Arabia's oil wealth has directly enabled the spread of Wahhabism" (Luft, 2005, p. 2). Osama Bin Laden justified the September 11 terrorist attacks, mostly by Saudi terrorists, "by the oil-related presence of US troops on the 'Holy Soil' of the Arabian Peninsula and the moral corruption of the oil-rich Saudi regime" (Le Billion & El Khatib, 2004, p. 116). There is wide popular discontent within Saudi Arabia over the kingdom's friendship with Washington. Many also feel the House of Saud is corrupt and condemn the family's wealth and position, which is maintained by conceding to U.S. pressure. Saudi Arabians criticize the presence of U.S. military in their country, and Bin Laden echoes these sentiments to recruit angry Saudi citizens.

The Saudis fear that if their citizens again perpetrate a terror attack in the U.S., there would be no alternative for the U.S. but to terminate its long-standing commitment to the monarchy—and perhaps even use military force against it (Luft, 2005, p. 3).

In order to preclude this outcome, the Saudis must search for new oil-seeking countries willing to protect the kingdom.

Saudi Arabia's goal is to assure that oil's role in the international economy is maintained as long as possible. Hence Saudi policy has always denounced efforts by industrialized countries to wean themselves from oil dependence, whether through tax policy or regulation (Morse & Richard, 2002, p. 2).

Consistently, the kingdom discourages oil importing countries from creating and maintaining large oil reserves like the Strategic Petroleum Reserve in the United States. These reserves could weaken Saudi Arabia's ability to affect prices and provides the importing country with some flexibility (Houthakker, 1981, p. 317).

Saudi Arabia has close to 3 mbd spare capacity (Morse & Richard, 2002, p. 2). This quantity could sufficiently replace the oil exports of another major petroleum exporting country in the global market. This spare capacity can benefit the United States by stabilizing the oil market in times of crisis, yet it can also be used against the United States. "Saudi spare capacity is the energy equivalent of nuclear weapons, a powerful deterrent against those who try to challenge Saudi leadership and Saudi goals. It is also the centerpiece of the U.S.-Saudi relationship" (Morse & Richard, 2002, p. 2). Saudi Arabia's spare capacity makes oil importing countries like the United States reliant on Riyadh for energy security.

Saudi Arabia will remain the most vital oil exporter not only in the Middle East but in the world due to its production capability, its spare capacity, and its immense proven reserves. As such, oil will continue to play a principal role in U.S. foreign policy making with Saudi Arabia. However, Washington must be careful not to incense the Saudi population by its military presence and supporting the often repressive House of Saud. It is more likely for the United States to assist in stabilizing the country rather than endeavoring to create reforms or revolution (Le Billion & El Khatib, 2004, p. 16). It is likely the United States will continue to push democratic and human rights issues behind our energy needs when dealing with Saudi Arabia. "It was an unlikely union—Bedouin Arabs and Texas oil men, a traditional Islamic autocracy allied with modern American capitalism. Yet it was one that was destined to endure" (Yergin, 1991, p. 428).

Our extensive relationship with Saudi Arabia will surely continue. If current petroleum trends continue in the United States, the kingdom's importance to U.S. energy demands will only increase. Thus, the U.S. must keep Saudi Arabia's security at the top of our national security agenda. However, it is important that the United States move away from oil dependence to allow Washington greater freedom in designing policies—based on other objectives above and beyond oil procurement—toward

Saudi Arabia. Until a time when the United States is less reliant on Saudi Arabia for current and future energy needs, Washington must stress the importance of maintaining a strong relationship with Riyadh, protecting our interests, stabilizing the kingdom, and carefully diminishing criticism and resentment by the Saudi population.

1973 Oil Crisis

In 1959, British Petroleum and Standard Oil, two major international oil corporations, decided to reduce oil prices, to the shock of their host oil exporting countries. A year later, in response to this decision, the major oil producing countries collaborated to establish the Organization of Petroleum Exporting Countries (OPEC), with the intent of stabilizing prices by controlling production. The creation of OPEC was significant, because it meant that these countries would be working together to create oil policies. At the time of conception, the OPEC countries accounted for 80 % of world oil exports (Randall, 2005, p. 264).

In reaction, the United States adopted "a policy of neutrality and non-commitment toward OPEC from its inception" (Randall, 2005, p. 279). U.S. policymakers and analysts believed that the organization would not long survive due to the "'unholy alliance' among Venezuela, Indonesia, and Iraq" who each had very different governments and ideologies (Randall, 2005, p. 272). Over the years as OPEC endured, the U.S. reassessed its stance toward OPEC and initiated a functional relationship in hopes to improve the United States' position with global oil exporters. Washington realized that oil companies could benefit from certain OPEC policies seeing that OPEC had begun to gain control in global energy markets in the early 1970s (Houthaker, 1981, p. 314). The oil cartel demonstrated cohesion in deciding production levels and prices.

In addition to OPEC, there is a separate organization for Arab petroleum exporting countries (OAPEC) which consisted of only the Arab countries of OPEC. OAPEC declared the oil embargo on the United States and the Netherlands in October of 1973. These Arab states did this to punish the United States for its support of Israel in the Yom Kippur War. The oil ministers "agreed to use oil as a weapon in the war, thus mandating a cut in exports and . . . in production" (Randall, 2005, p. 288). The embargo had the effect of quadrupling global crude oil prices (Houthakker, 1981, p. 314). It also resulted in making "the Arab-Israeli conflict over the nationhood of Israel, the sovereignty of Palestine, and the status of Jerusalem stand out as the set of regional enmities that most seriously affected the oil system" (Bull-Berg, 1987, p. 103).

The American oil companies with interests in the Middle East worried about Washington's position toward the Arab-Israeli conflict. These companies urged the administration "to adopt a less pro-Israeli position" (Randall, 2005, p. 287). President Richard Nixon ignored their pleadings, despite the fact that he received campaign support from the oil industry (Randall, 2005, p. 287). Even the Petroleum Minister of Saudi Arabia had warned Aramco that "if the U.S. does not stay out of this conflict, the U.S. is finished in the Middle East" (Randall, 2005, p. 276). However, before the embargo, the administration felt that their access to foreign oil was guaranteed since most of the Arab producing countries relied on profits from exports to the United States (Randall, 2005, pp. 269-270). "At the rhetorical level, the United States acted quickly and forcefully to counter the exasperation created by the 1973-4 oil embargo" (Bull-Berg, 1987, p. 3).

Washington initially responded by developing short and long-term measures to affect market behavior and the politics of oil (Bull-Berg, 1987, p. 7). The Nixon administration made considerable domestic policies in response to the 1973 embargo. Americans were asked to turn down their thermostats, conserve electricity, and reduce driving speeds (Randall, 2005, p. 288). Canada and the U.S. protected the domestic oil market by setting price controls. This exacerbated the policies of other oil importing countries who, like the Europeans and Japanese, "not only allowed the world price to prevail domestically, but increased indirect taxes on petro-

leum products" (Houthakker, 1981, p. 330). The U.S. was determined to control the price of oil and to not let OPEC dictate market conditions. The United States' most critical foreign policy objective was to convince the largest oil producer, Saudi Arabia, to conclude its embargo and to resume production at levels that would stabilize oil prices (Bull-Berg, 1987, p. 58).

President Nixon took the lead as the embargo continued to deteriorate the economies of the United States and other oil importing countries (Randall, 2005, p. 288). He brought these countries together at the Washington Energy Conference in 1974, where Secretary of State Henry Kissinger presented "Project Independence," a plan for United States self-sufficiency in energy (Randall, 2005, p. 289). Later that year, these countries met again in Paris to establish a mechanism to counter OPEC. Thus, the International Energy Agency (IEA) was founded, which made arrangements regarding sharing oil supplies during emergencies. The IEA also called for the establishment of petroleum reserves by its members. Otherwise, the "Nixon Administration policy towards the embargo shifted between behind the scenes diplomacy and some saber rattling in public" (Randall, 2005, p. 289) Kissinger's shuttle diplomacy "convinced Arab states to resume shipments of oil to Western states in March 1974" (Hahn, 2005, p. 60). The oil embargo crisis cost the United States approximately $15 billion during the first quarter of 1974 alone (Randall, 2005, p. 290). This was the price America paid for supporting Israel over the desires of Arab producers and not conceding foreign policy to oil pressures.

The United States' energy and security policy has been shaped by the threat of the oil weapon since the 1973 embargo (Kretzman, 2003). "The current energy security system was created in response to the 1973 Arab oil embargo to ensure coordination among the industrialized countries in the event of a disruption in supply, encourage collaboration on energy policies, avoid bruising scrambles for supplies, and deter any future use of an 'oil weapon' by exporters" (Yergin, 2006). The IEA and its required domestic petroleum reserves are key elements of current energy and foreign policy between the United States and other importing nations, along with energy conservation, coordination in case of oil disruptions to ensure the sharing of supplies, and the observation and analysis of oil market conditions and changes (Yergin, 2006).

The members of OPEC have very different foreign policy concerns; the cartel's primary goal is to maximize profits from oil (Houthakker, 1981, p. 316). During the 1973 oil embargo, OPEC's announced "5 percent monthly production cutbacks were canceled within a month. By December 25, OPEC agreed to a 10 percent increase in January production. The promise to tie oil exports to Israeli withdrawal from Palestine had a shelf life of only two months" (Taylor, 2001). The embargo was terminated for economic, not political reasons. "OPEC's cover story was an attempt to win a few foreign policy points for actions it would have taken anyway. . . . Never once have they allowed foreign policy considerations to get in the way of the bottom line, self-serving declarations to the contrary notwithstanding" (Taylor, 2001).

The oil crisis of 1973 was a wake up call to policymakers in Washington, who were forced to realize the power of OPEC and the demands of oil exporting countries. "The growing economic power of OPEC enables them to resist U.S. pressure on a variety of issues, from human rights to nuclear proliferation" (Luft, 2005, p. 5). Also demonstrated by the embargo was the cost America would pay in choosing support of Israel over foreign policy dictated by the petroleum factor. The oil embargo "dramatized America's dependence on imported oil and the consequences of its insatiable appetite for energy" (Feldman, p. 1). The result was a modification in our national energy strategy to include creation of the IEA and the Strategic Petroleum Reserve. Fortunately for the United States, a similar embargo today would be improbable "because of increased flexibility and diversity of supply and more abundant energy reserves" (Feldman, p. 12).

Iraq

Iraq is positioned centrally in the Persian Gulf—an area with more than 60 % of all the world's oil reserves (Collina, 2005, p. 3). Iraq's proven oil reserves are second only to Saudi Arabia, accounting for 11 % of global reserves (Barnes et al., 2003). Some estimate that Iraq could possibly have as much as 220 billion barrels in reserves, a number that nears 80 % of Saudi Arabian reserves (Kretzman, 2003). Additionally, Iraq is the sixth largest importer of petroleum to the United States (NEPDG, 2001, p. 8-4). Like the other Middle Eastern oil producing countries, Iraq gained considerable importance in foreign affairs after World War II. However, in June of 1967, Iraq dissolved diplomatic relations with the United States following the Arab-Israeli Six Day War, claiming that the United States had colluded to support Israel (Lesch, 2003, p. 328). Despite poor relations, petroleum imports continued to flow into the U.S. market. After the oil embargo and Yom Kippur War of 1973, Iraq, due to its dismal economic situation, attempted to improve relations with the West (Lesch, 2003. p. 328).

Meanwhile, United States' previously close relationship with Iran changed when the Shah was overthrown during the 1979 Iranian Revolution. The United States no longer received preferential treatment by the new government, and U.S. relations with Iran deteriorated. When Iraq invaded Iran in 1980, "the United States criticized the invasion, but its real attitude was very different . . . Saddam Hussein attacked a state that had taken Americans hostage and was most hostile to the United States" (Lesch, 2003, p. 328). The United States realized Iraq's energy potential and could not risk Iraq's defeat to Iran.

At one time during the Cold War, the United States provided Iraq with both direct and indirect assistance because of the country's opposition to the Soviets. This included "battlefield intelligence; Operation Staunch, designed to deprive Iran of arms; support in the United Nations (UN) for a resolution calling for a cease-fire; and reflagging Kuwaiti tankers" to protect against Iranian gunboat attacks (Lesch, 2003, p. 329). Washington's position in Baghdad improved when Secretary of State Henry Kissinger facilitated negotiations between Saddam Hussein and the Shah of Iran (Lesch, 2003, p. 328). However, the war caused considerable damage to the petroleum production and distribution structure in Iraq, preventing production and export of petroleum at a substantial level (Houthakker, 1981). After the war, the United States strongly supported a Jordanian-Iraqi pipeline to help prevent an economic collapse in Iraq (Lesch, 2003, p. 329).

After the conclusion of the war, the U.S.-Iraqi relationship was again strained as both sides began to see glaring differences in their foreign policies. Obstacles included human rights issues, the Iraqi accumulation of weapons of mass destruction, opposite stances on Israel, and Iraq's apparent support for terrorist groups in Palestine (Lesch, 2003, p. 329). The United States also would not consent to Saddam Hussein's plans to dominate the Persian Gulf. "Saddam offered President Bush a guarantee . . . that oil would flow undisturbed . . . at a 'reasonable price' of $25 per barrel. In return he expected U.S. acceptance of the annexation of Kuwait and Iraq's status as senior U.S. ally in the Gulf" (Lesch, 2003, p. 344).

President George H.W. Bush would not accept the annexation. If Iraq captured Kuwait, it would control over 21% of global oil supplies. Once Iraq had control over these enormous Persian Gulf resources, it "would have a 'stranglehold' on the economy of most of the nations of the world" (Le Billion & El Khatib, 2004, p. 124). Baghdad concluded that it could no longer cooperate with the United States. Washington was preventing Iraq's desire for "Gulf and Arab hegemony and what [Iraq] saw as its legitimate national security interests" (Lesch, 2003, p. 345).

On August 2, 1990, Saddam Hussein commanded his troops to enter Kuwait. In the process, Iraq took control of the Rumailah oil field (Randall, 2005, p. 301). "Iraq justified its invasion of Kuwait in 1990 by accusing it of tapping into cross-border oil fields and maintaining a low price policy which undermined Iraqi

oil revenues, ultimately resulting in a devastating combination of war, economic sanctions, domestic rebellion and internal repression" (Le Billion & El Khatib, 2004, p. 112). President Bush immediately responded. U.S. troops were sent to protect Saudi Arabia and to build a coalition force with the purpose of driving the Iraqi military out of Kuwait, while preventing further Iraqi aggression in neighboring countries. The Persian Gulf War of 1990-91 was an easy victory for the United States and its allies. They succeeded in defeating the Iraqi military and pushing Saddam's power back within the boundaries of Iraq.

Soon after, the UN Security Council adopted Resolution 661 which imposed comprehensive sanctions on Iraq (Randall, 2005, p. 302). In the years after the Persian Gulf War, Iraq's oil production continued to decline. Initially, the sanctions prevented countries from purchasing Iraqi oil. In 1995, the UN approved the Oil for Food Program which allowed Iraq to sell its oil in the global market on the condition that the proceeds went towards food, medical drugs and equipment, or humanitarian needs of Iraqi citizens. Iraq was restricted from rebuilding its military or continuing to acquire weapons of mass destruction.

Washington was forced to reassess its policy towards Iraq following the terrorist attacks of September 11, 2001. The George W. Bush administration decided to invade Iraq on claims that Saddam Hussein had weapons of mass destruction. Vice President Richard Cheney stated the importance of energy security in the Persian Gulf to the U.S.:

> "should [Hussein's] ambitions [to acquire weapons of mass destruction] be realized, the implications would be enormous for the Middle East and the United States . . . Armed with an arsenal of these weapons of terror and a seat at the top of 10% of the world's oil reserves, Saddam Hussein could then be expected to seek domination of the entire Middle East, take control of a great portion of the world's energy supplies, [and] directly threaten America's friends throughout the region" (Klare, 2004a).

Whether or not the U.S. invaded Iraq in 2003 because of oil, the Bush administration cannot deny the importance of Iraqi oil. Washington must carefully design its approach to the petroleum resources of Iraq. In planning for the Iraqi invasion, the Department of Defense crafted strategies that "sought to capture Iraq's oilfields intact to provide a source of revenue for the reconstruction of the country" (Klare, 2004a). The U.S. aimed to secure and protect Iraqi oil fields in order to prevent their destruction during the invasion and subsequent conflicts within Iraq.

Commentators who disagree that oil motivated the current war with Iraq argue that the United States would not expend the magnificent cost and military effort to obtain oil, a commodity that can easily be purchased in the open global market (Le Billion & El Khatib, 2004, pp. 121-122). Additionally, Iraq's production has remained stagnant. There have been no technological advances or significant investments in the Iraqi oil industry since its war with Iran. "Iraq will remain a relatively marginal oil producer for years to come" (Le Billion & El Khatib, 2004, p. 122).

Washington and Baghdad place a high priority on the speedy recovery of the Iraqi oil sector (Barnes et al., 2003). "Iraqis place a premium on the restoration of the country's energy infrastructure. A future regime will be legitimated more by its delivery of services—including provision of energy—than by its commitment to democracy" (Gvosdev, 2003). The U.S. government will have to demonstrate that the profits from future oil sells benefit the Iraqi citizens (Le Billion & El Khatib, 2004, p. 133). "What is good for the United States may not be good for a 'post-Saddam regime in Baghdad'" (Barnes et al.), and the United States will have to put

its interests aside for control of Iraqi oil. Until a stable, internationally recognized government is established in Baghdad, the UN Security Council has decided that the "proceeds of all export sales of petroleum shall be deposited into a Development Fund for Iraq, to be used 'in a transparent manner . . . for purposes benefiting the people of Iraq'" (Le Billion & El Khatib, 2004, p. 128).

No American oil companies were permitted to do business in or with Iraq during the period after the Persian Gulf War. However, some companies from states supporting the U.S.-led Iraqi invasion were in the process of speculating in Iraqi oil. Many will judge the United States based on how the coalition handles Iraq's petroleum resources.

> Several key tests will help determine the place of oil interests in the outcome of the war, including the preferential awarding of Iraqi-paid reconstruction and oil infrastructure rehabilitation contracts to US firms close to the administration; the cancellation or significant modification of current oil development contracts of (non-US) companies; non-competitive awarding of contracts to US/UK oil companies; and the privatization of the Iraqi National Oil Company in a manner preferential to US/UK interests (Le Billion & El Khatib, 2004, p. 123).

Since World War II, the United States' relations with Iraq have been plagued with conflict. Iraq's oil reserves make the country critical to both the future of U.S. energy and national security. As mentioned earlier, President Jimmy Carter declared in 1980 that the "secure flow of oil from the Persian Gulf was in 'the vital interests of the United States of America' and that America would use 'any means necessary, including military force' to protect those interests from outside forces" (Collina, 2005, p. 3). The George H.W. Bush administration used the Carter Doctrine to justify the Gulf War, and the current Bush adminstration's decisions about Iraq's oil industry will determine the role of oil in the invasion of Iraq (Collina, 2005, p. 3).

Conclusions and Recommendations

> *"The Stone Age did not end because we ran out of rocks. The oil age will likely be with us for decades to come."* (Ebel, 2005)

As domestic reserves are depleting and petroleum demand is increasing, the United States increasingly relies on foreign countries to supply the necessary amounts of oil. Oil dependency is a real problem. The United States is beholden to other nations for this important source of energy. Consequently, since World War II, the United States energy policies and foreign policies have progressively become more interconnected.

The Carter Doctrine has been a central justification for the use of force in modern United States oil policy (Collina, 2005, p. 3). I suggest that the United States is not erroneous in its use of military force to protect oil interests in the Persian Gulf or in other oil producing regions of the world. Oil is an important component of our national security, and we must be prepared to defend our national security. However, this doctrine should be reexamined. We should not abandon our "alliances and security agreements with friendly, democratic states for defense against mutual threats;" however we should avoid military use to arm and "protect undemocratic, repressive regimes for the sole purpose of making sure their oil continues to flow our way" (Collina, 2005, p. 6).

Additionally, a fundamental aspect of our foreign policy should be respect for the sovereignty of nations. The primary goal of United States foreign policy should encourage diplomatic negotiations rather than military

force."The intersection . . . between the two imperatives of keeping the world 'safe' and keeping the world 'powered' will preoccupy American foreign policymakers in the years to come" (Gvosdev, 2003).

Also important in U.S. international relations is cooperation with other oil-importing nations. "It remains critical for oil importing countries to bind themselves collectively to meet pending disruptions" (Barnes et al., 2003). Additionally, other oil-importing countries share vulnerabilities in oil dependence and therefore share the desire to pursue alternative sources of energy. Foreign energy policy should reflect commitment to share in the research and development of new technologies that will alleviate oil dependency. "The issue of oil is not a uniquely American problem, and policymakers should therefore not pursue a uniquely American solution" (Woolsey, 2004).

Energy demands should not bring about a fall of U.S. hegemony to foreign oil producers. In order to circumvent the risks and vulnerabilities of oil dependency, the United States must begin taking steps now to alleviate this reliance, which would require a multi-faceted transitional approach. The United States will not be weaned off oil overnight because of its petroleum-based economy. A radical change is not likely; nonetheless, the United States should take deliberate but incremental steps towards a new energy era. Neither the United States nor the world will run out of oil in the near future; however, we should immediately begin taking the first steps to prepare ourselves, especially considering how oil exporting countries can abuse their energy power. The U.S. must take steps not only to decrease oil demands and usage, but to conserve energy, increase domestic supplies, and improve relations with oil exporting countries.

The United States must be dedicated to the research and development of renewable, environmentally friendly, and affordable sources of energy. The major oil companies, car manufacturers, and various other sectors of American business have a large stake in the development of new fuels which will overtake the demand for oil. The government should encourage private companies to promote new sources of energy that will benefit not only the companies' pocketbooks, but also the greater good of society. Furthermore, the U.S. government should provide economic funding, tax breaks, and incentives to consumers who choose new alternative fuels and sources of energy over petroleum and to the companies who design and produce them.

Even with successful integration of new energy sources and alternative forms of energy, portions of American society will continue to need oil. The Middle East will become more powerful as petroleum resources in the rest of the world become scarce. The countries of the Persian Gulf have the benefit of holding two-thirds of the world's proven oil reserves. It is, therefore, important to maintain strong international relations with these countries without sacrificing our ideologies and national security. History should not be neglected or forgotten, but diplomacy is the key for the future.

In the post-September 11 world, terrorism is a continuous threat. The United States should therefore vigorously guard its energy infrastructure from terrorist attacks and be prepared to protect U.S. oil tankers and foreign oil tankers shipping to the U.S. It should also take steps to protect oil pipelines, ports, oil fields, refineries and the Strategic Petroleum Reserve.

In foreign policy, the United States has allowed the demand for oil an important role in the decision making process. The U.S. government should take the lead globally in the process of converting our economy based on hydrocarbon to an economy founded on renewable, economical, and environmentally friendly energies in order to alleviate vulnerabilities to foreign oil producers. Economic incentives are necessary to convince the general population to encourage such a transition in the economy. The evolution of an U.S. economy based on petroleum requires the government to set priorities and take realistic steps towards change. The two fundamental objectives are to discover and develop a new energy direction for the United States and to free foreign policy from the restraints of oil dependence.

In order to achieve these goals, the United States should first place an increased federal tax on the sale of petroleum products. Because the transportation sector relies most heavily on oil, it should face heavier taxation through increased gasoline and diesel fuel taxes. Washington should then use these revenues dually for funding research and development of alternative fuels and sources of energy and for providing economic incentives to companies manufacturing successful new products and the customers who purchase them. Despite doubtless unpopularity with the American public, sufficiently increased prices will provide the necessary motivation for the development of alternative fuels and sources of energy and induce the public, the market, and research and development groups to energetically move away from petroleum dependence.

Washington cannot interfere too greatly in the transition. After placing the increased petroleum tax and appropriately distributing the revenue for research and development, the government should allow the market to take control. As gasoline prices increase and successful energy alternatives become available, the market will begin to demand the new products, and these new products will become more affordable. The direction of new fuels and technology will largely result from population demands, available technology, and research and development. The government should play a minimal oversight role to ensure that the new energy course is in the best long-term interest of the United States versus a quick fix that leads to additional future problems.

A gradual shift away from oil reliance will eventually allow the United States more freedom in developing its foreign policy. Ultimately, Washington should have the ability to formulate policies without being captive to our energy dependence and the pressures of oil exporting countries. An incremental transition to alternative energy sources will eventually push oil concerns further down the priority list of foreign policy objectives. Beginning with a federal tax on transportation fuels and ending with the development of a new direction in U.S. energy policy, the United States will be on the road to greater freedom in our national security. ◆

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