CHAPTER 2

LEGITIMACY IN THE CONDUCT OF MILITARY OPERATIONS

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> If a national decision [to use force] is made without sufficient regard to whether its use of force has legitimacy in the eyes of the international community, the result can be a setback to the cause of peace and to the interests of the nation that has gone to war.[1]
>
> —Ivo Daalder

INTRODUCTION

Since the end of the Cold War and the emergence of the United States as the world's only hegemonic power, public interest on questions of legitimacy in the use of military power has increased. U.S. interventions in Kosovo and Bosnia, the terrorist attacks of September 11, 2001 (9/11), and the wars in Afghanistan and Iraq are seminal events which call into question common guidelines on when, where, and how it is appropriate to use military elements of national power.[2] U. S. emphasis on the preemptive use of force as a means for dealing with emerging threats also calls into question the importance of international bodies for determining when the use of force is legal and legitimate.

Modern international rules which govern the use of force were originally drafted into the Charter of the United Nations (UN) at the end of World War II, specifically to prevent another global scale conflict. The world has changed dramatically since 1945, but the rules of governance have not kept pace with the changing times, causing the old paradigms to be challenged. According to Michael Glennon, "After Kosovo, Iraq, and over 200 additional instances in which force has been used in violation of the United Nations Charter, no consensus can any longer be said to exist within the international community as to when the use of force is either lawful or legitimate."[3] It is clear that a review of the old rules governing the use of force is desperately needed. Also requiring review is the concept of legitimacy, and whether it still has bearing on the decision to use military force. This chapter will examine the relevance of legitimacy, the issues surrounding legitimacy and the use of military power, and how the United States can ensure that future conflicts will be considered legitimate by the international community.

NEW SECURITY ENVIRONMENT

The world has changed dramatically since the founding of the UN. Today's strategic thinkers and policymakers face tremendous challenges as they struggle to adapt to an ever more fluid and dangerous security situation. The greatest challenge for the 21st century may be determining when to use force, how that force can be legitimately used, and the role that international institutions or coalitions play in making those decisions.

The presence of failed states, the proliferation of weapons of mass destruction (WMD), and the requirement for humanitarian assistance in war torn areas all coalesce to force a new consideration on how force can legally and legitimately be applied. In a March 2004 speech on the threat of global terrorism, British Prime Minister Tony Blair discussed the concepts of preemption and legitimacy in the face of a changing world environment.

> Already, before September 11th the world's view of the justification of military action had been changing. The only clear case in international relations for armed intervention had been self-defense, response to aggression. But the notion of intervening on humanitarian grounds had been gaining currency. I set this out, following the Kosovo war, in a speech in Chicago in 1999, where I called for a doctrine of international community, where in certain clear circumstances, we do intervene, even though we are not directly threatened.
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> . . . Containment will not work in the face of the global threat that confronts us. The terrorists have no intention of being contained. Emphatically I am not saying that every situation leads to military action. But we surely have a right to prevent the threat materializing, and we surely have a responsibility to act when a nation's people are subjected to a regime such as Saddam's.[4]

Brookings Institute scholar James Steinberg outlines four justifiable circumstances for the legitimate use of force: operations against terrorists, preventing the spread of WMD, humanitarian crises, and actions to deal with failing states.[5] In the interest of clarity, it would be beneficial to review some of the factors which define the new security environment, and examine their relevance within the debate on the use of force.

Failed or Failing States.

During the Cold War, both the United States and the Soviet Union sought to gain an advantage and spread influence by liberally using aid and resources. As the Soviet Union slipped further into decline and its influence waned, neither state was inclined to apply wealth and material support as a balancing mechanism in international affairs. As external resources were removed, a shift in wealth and power occurred, and some states began to fail. The International Red Cross defines failing states as ones ". . . in which institutions and law and order have totally or partially collapsed under the pressure and amidst the confusion of erupting violence. . . ."[6]

Failed or failing states create problems which complicate the matter of enforcement of international law, and render traditional tools of deterrence ineffective. According to Seyom Brown, "Failed or failing states . . . could catalyze dangerous regional instabilities. Moreover, the entire system can be destabilized, and wars initiated and conducted by non-government actors: violent political movements, terrorist networks, and criminal syndicates."[7] Without the support, control, and oversight of the major powers, the problems of failed or failing states can alter regional balances of power and make it easier for terrorist or criminal elements to operate. Without governments or organizations upon which to focus its power, outside states have few options for deterrence or to ensure appropriate behavior from those elements.

Weapons of Mass Destruction.

WMD comprise the most dangerous threat to international peace and security. Their proliferation and the resulting threat is one of the most frequently used arguments justifying the preemptive use of force. According to James Steinberg, using force preventively against WMD capabilities has strong appeal because of the ". . . potentially devastating consequences of either failure of warning or inadequacy of defense. . . ."[8] Strategic decisionmakers must consider not only the local consequences of a successful nuclear or biological attack on a large metropolitan area, but also the effect that such an attack would have on the global economy. A single WMD could not only kill tens or hundreds of thousands of innocent civilians, but it could shift the global balance of power in an instant.

State and Nonstate Actors.

The tools of deterrence and the threat of mutually assured destruction which helped to contain the Soviet Union during the Cold War may not be effective against terrorists and other nonstate actors, especially those with religious apocalyptic or ideological underpinnings.[9] The changing nature of the enemy, the inefficacy of traditional deterrence, and the terrible consequences that accompany considerations of failure require new strategies specifically designed to deal with a new and nontraditional threat.

Future Warfare Challenges.

Conflict in the 21st century is likely to be asymmetric, low intensity, and will require greater levels of involvement of unconventional military power. Sir Rupert Smith calls these conflicts "wars amongst the people," and predicts that future enemies will appear ". . . in small groups operating at the tactical level, against which the maneuvers and mass firepower of industrial war are ineffective. . . ."[10] Gone are the days of conventional wars where great powers met on battlefields to decide issues with clear boundaries and concise start and end points. Today's threats come in the form of small, dissociated terrorist cells whose goals are to destabilize without direct confrontation and whose tools take the form of WMD and asymmetric warfare.

Nonstate actors and small terrorist cells do not warrant the full use of national power, and according to Jeffrey Record, the application of that power may not even be possible. "Massive, rapid, and decisive use of force is virtually impossible in a world of limited and politically messy wars, in a global environment in which non-state enemies practice protracted irregular warfare as a means of negating the potential effectiveness of America's conventional military supremacy."[11] Instead, the United States must focus its efforts and resources toward developing asymmetric capabilities. Richard Betts writes that ". . . with rare exceptions, the war against terrorists cannot be fought with army tank battalions, air force wings, or naval fleets. . . . The main challenge is not killing the terrorists but finding them, and the capabilities most applicable to this task are intelligence and special operations forces."[12] The challenge for modern military power is maintaining the ability to deal with both the conventional and asymmetric threat.

Humanitarian Assistance.

The need to provide relief for war-torn areas in the form of humanitarian assistance is increasingly accepted as one of the established and accepted reasons that a great power may resort to force without the approval of the international community. Because of political considerations, it is often difficult to gain UN Security Council approval for intervention.

Yet on occasion, the major powers have intervened without international approval, and have met with some success. With regards to the North Atlantic Treaty Organization (NATO)-led intervention in the Balkans, Chris Abbott writes "Kosovo is understood by many to have established the norm of resort to force without the authorization of the UN Security Council (although in fact most humanitarian interventions have taken place without prior endorsement by the UN)."[13] Furthermore, the United Kingdom (UK) Parliament's Foreign Affairs Committee report on NATO's action in Kosovo states that ". . . NATO's military action, if of dubious legality in the current state of international law, was justified on moral grounds."[14]

In 2001, the International Commission on Intervention and State Sovereignty released a report entitled *The Responsibility to Protect* to help outline the problem and identify solutions. The report concluded that national sovereignty was an important principle of international law, but that it was ". . . neither inviolable nor a legitimate justification for inaction by the international community when sovereign governments are unwilling or unable to protect their citizens from large-scale violations of human rights, crimes against humanity, ethnic cleansing, or genocide."[15] When governments cannot, or choose not to, protect their citizenry, the international community has a responsibility to act forcefully.

UNILATERALISM AND PREEMPTION

According to Colin Gray, "The strategic theory, the policy, the strategy, and the plans for the 21st century need to be radically different from those suitable from the Cold War."[16] He differentiates between the doctrine of preemption and the concept of preventive war, stating that "Preemption refers to the first use of military force when an attack already is underway or, at the least, is very credibly imminent."[17] The difference between preemptive war and preventive war is that preemptive war ". . . uniquely is exercised in or for a war that is certain, the timing of which has not been chosen by the preemptor."[18] Prevention, on the other hand, is an act of choice, requiring that the nation taking the action, ". . . must express a guess that war, or at least a major negative power shift, is probable in the future."[19]

A new U.S. unilateralism first appeared in statements of public policy in the Clinton Administration's 1998 National Security Strategy, which stated: "We will do what we must to defend these (vital) interests, including—when necessary—using our military might unilaterally and decisively."[20] The George W. Bush administration added preemption as a key point in its national security strategy:

> It is an enduring American principle that this duty obligates the government to anticipate and counter threats, using all elements of national power, before the threats can do grave damage. The greater the threat, the greater is the risk of inaction—and the more compelling the case for taking anticipatory action to defend ourselves, even if uncertainty remains as to the time and place of the enemy's attack. There are few greater threats than a terrorist attack with WMD. To forestall or prevent such hostile acts by our adversaries, the United States will, if necessary, act preemptively in exercising our inherent right of self-defense.[21]

In theory, the unilateral and preemptive use of military power in the face of perceived threats makes sense. However, in practice, these actions have not only resulted in a distancing of traditional allies, but also the establishment of a dangerous precedent within the international community. Ironically, U.S. reliance on preventive war may have doomed its efforts to control the spread of nuclear weapons to rogue states. Iran's efforts to attain nuclear technology and its resistance to international pressure may be the actions of a government operating defensively from what it sees as the perceived threat of invasion. Long-term American efforts to promote regional stability may be more difficult because of the precedent set in 2001 and 2003. An additional second order effect may be the example set for other strong international states.

As the world's only remaining superpower, the United States has the strength and the right to act on its own in support of its vital national interests. However, the policies of preemption and unilateral action have combined to cause great damage to American's global image without enhancing its security. According to Stephen Walt, repudiating this policy is the first step in rebuilding America's reputation within the international community.[22]

The U.S. intervention in Iraq was a war of prevention, fought for regime change, to destroy safe havens for terrorists, and to prohibit the spread of WMD. By acting first and without the support of most major world powers, the United States challenged the contemporary rules governing the use of force. There are defenders and detractors on both sides of the argument, but few will deny that international public opinion has turned against the United States, and American long-term interests and security have been damaged as a result. According to Ivo Daalder and James Lindsey, ". . . No foreign policy decision since America's retreat into isolationism in the 1930s has done more to harm American and global security than the Iraq war."[23] This war ". . . has cost America the trust of its friends and allies around the world—a trust that since 1945 has been instrumental in translating America's economic and military power into global influence and leadership."[24]

Finally, consideration must be given to the costs of 21st century military interventions. According to Richard Betts, both Presidents Bill Clinton and George W. Bush ". . . embraced ambitious goals of reshaping the world according to American values but without considering the full costs and consequences of their grandiose visions . . . [leaving a defense budget] . . . higher than needed for basic national security but far lower than required to eliminate all villainous governments and groups everywhere."[25] A Congressional Budget Office report estimates the cost of funding military operations in Iraq and Afghanistan from September 2001 through the end of FY 2007 as being $604 billion.[26] With few international partners willing or able to help share the costs, the burden for these nation-building efforts falls upon the United States.

LEGITIMACY

The United States has many instruments of national power at its disposal as it seeks to defend its people and vital interests. Whether referring to diplomatic, informational, economic, or military power, Stephen Walt states that "American power is most effective when it is seen as legitimate, and when other societies believe it is being used to serve their interests as well as America's."[27] How one defines legitimacy depends on background and point of view. The word "legitimate" is often used synonymously with the word "legal," but the two have different meanings. Whereas legitimacy is subjective and is based on the dispositions of the interpreter, legality refers to concepts which are ". . . intended to be objective and universal; its meaning is intended to be the same for all actors subjected to it."[28] According to Seyom Brown, ". . . decisions to go to war or to dramatically escalate an on-going war almost always are shaped in part by views, domestic and foreign, as to whether the contemplated actions are legal and moral. Legal is taken to mean consistent with the U.S. Constitution and congressional legislation, but also with treaties to which the United States is a party."[29] Accordingly, a legal military action is one which conforms to the guidelines of the UN charter, as expressed in Article 51.

Decisionmakers must determine whether the United States should be governed by international law or the much more subjective concept of legitimacy. This approach is not without its difficulties, considering that the international community has great trouble coming to a commonly held understanding of what constitutes legitimate action, and cannot agree on the methodology for a test of legitimacy.[30] The only principle most can agree upon is that the concept of legitimacy does matter, to both the American public and also to the international community. According to Ivo Daalder and Robert Kagan,

> To forge a renewed political consensus on the use of force, we first need to recognize that international legitimacy does matter. It matters to Americans, who want to believe they are acting justly and are troubled if others accuse them of selfish, immoral, or otherwise illegitimate behavior. It matters to our democratic friends and allies, whose support may attest to the justness of the cause and whose participation may often be necessary to turn a military victory into a lasting political success.[31]

The struggle to achieve legitimacy is the struggle to win the hearts and minds of the people, and at its core, is a war of ideas. The 9/11 Commission makes it clear that al-Qaeda and other anti-American groups understand the importance of legitimacy, especially in the Islamic world. "If the United States does not act aggressively to define itself in the Islamic World, the extremists will gladly do the job for us."[32] It stands to reason that the United States must do a better job at strategic communication and of explaining ideas, actions, and motives to the international community.

According to Daalder and Kagan, "To sustain broad, bipartisan support for interventions requires that we rebuild a domestic consensus on a fundamental but elusive issue: the question of legitimacy."[33] How best to achieve domestic legitimacy is a challenge for American policymakers. The Constitution outlines a system whereby checks and balances provide the mechanism for ensuring the legality and legitimacy of military force.

The War Powers Act of 1973 was an attempt to assure the proper division of power between the executive and legislative branches of government. As Commander in Chief, the Act allows the President to use force on a temporary basis without congressional approval,[34] but Congress retains the authority to declare war and to raise, fund, and support the armed forces during military intervention.[35] In theory, domestic legitimacy is ensured because no long-term major military intervention can occur without the express approval of the representatives of the American people.

Some question the effectiveness of the War Powers Act since it has not prevented U.S. involvement in long, indecisive wars in the past. The American public remains deeply divided on the question of the war in Iraq, and those divisions continue along party lines in Congress as well. While it is clear that the checks and balances are in place, the United States continues to suffer questions about the legitimacy of its actions. Gaining and maintaining public support for future military interventions will be a challenge for future policymakers. Daniel Byman and Matthew Waxman make the point that linking military action to vital national interests is essential to maintaining U.S. public support. "Support is likely to erode with casualties when vital interests are not at stake, when the public views victory as unlikely, or when the policy elite do not support the policy."[36] The role public opinion played in ending the Vietnam War is of particular relevance in this regard.

To avoid U.S. involvement in long, drawn out, unpopular wars, policymakers have suggested that the United States should consider objective criteria which can be used to govern when, where, and how the United States uses military force in pursuit of its interests. In an attempt to apply specific criteria as litmus tests for employing military force, Colin Powell outlined six basic criteria which should be met before the United States commits forces to combat operations. He contended that military forces should be committed to combat operations only as a last resort and only if vital national interests are threatened; that force should be applied in overwhelming numbers and with the clear intention of winning; that forces should be given clearly defined military and political objectives which are reassessed and adjusted if necessary; and that there must be strong public and congressional support for the campaign.[37]

Some argue that these guidelines are too restrictive and not flexible enough to deal with modern interventions. Branislav Slantchev writes that ". . . the Doctrine is a recipe for inaction and the problem . . . is not that the U.S. gets involved too often but that it gets involved not often enough, and when it does, it is often not with whole-hearted determination because of the perceived need to minimize American casualties."[38]

It is clear, however, that the criteria were intended to help guide domestic discourse and decisionmaking by outlining the kind of issues that need to be considered when determining whether force should be used. Citing a Council on Foreign Relations report, Robert Pauly and Tom Lansford write that the Doctrine is ". . . useful only as a checklist that policy makers can use to ensure that they have carefully thought through a decision for military intervention."[39]

There is a strong link in the minds of the American public between domestic legitimacy and international approval for military action. According to Byman and Waxman,

> The US public will also want to see any military campaign as conforming to international legal norms and its own collective sense of morality, in terms of both the decision to launch military operations and the way operations are conducted. In this regard, international law serves as an imperfect reflection of contemporary morality and an impeachable arbiter of the morality of any action. Actions that appear to violate international law acquire an extra burden to justify themselves in moral terms.[40]

U.S. policymakers have long understood the importance of involving the international community in military interventions. The Truman administration gained legitimacy for the Korean conflict by sending American forces to fight under UN auspices, and the Kennedy administration sought legitimacy by making the case for unilateral action in dealing with the Soviet deployment of missiles to Cuba through the UN. In more recent times, the administration of George H. W. Bush ensured legitimacy by gaining UN support for removing Iraq from Kuwait in 1990. Even though it failed to get UN approval for the use of force in the Balkans, the Clinton administration was able to achieve legitimacy of a sort by working within the NATO-led coalition.

The U.S.-led invasions of Afghanistan and Iraq presented a challenging situation for those proponents of legitimacy. Both conflicts began at the UN and were prosecuted using international coalitions. Both conflicts had supporting resolutions, though some challenge the time gap between the 1991 Gulf War and the U.S.-led invasion of 2003. However, Afghanistan is considered to be legitimate because the link between Taliban support for al-Qaeda and the 9/11 attacks was clear and well-understood by the international community. In spite of the efforts of Colin Powell and Richard Armitage, the George W. Bush administration was never able to establish the link between Saddam Hussein and al-Qaeda , and the U.S. intervention in Iraq has not achieved the same level of legitimacy with the international community. Charles Krauthammer writes that the Afghan war garners more support within the United States because ". . . it's origins are cleaner, the *casus belli* clearer, the moral texture of the enterprise more comfortable. Afghanistan is a war of righteous revenge and restitution, law enforcement on the grandest of scales."[41]

INTERNATIONAL ORGANIZATIONS

Many still consider the UN as the primary institution for defining the legal and legitimate use of force. The UN was originally founded in the aftermath of World War II to ensure international peace and stability and to avoid another global conflict. The UN Charter was drafted with very specific rules governing the use of force and when force can be applied legally by any member of the international community. Article 51 prohibits the threat or the actual use of force with the exceptions of self-defense or Security Council authorization.[42]

Though few will disagree on the theoretical merits of these guidelines, in practice, their implementation raises several problems. First, the Charter was written to address a very different set of challenges than the ones facing today's decisionmakers. The framers of the UN Charter likely did not envision current threats of international terrorism, failing states, and the proliferation of WMD. Michael Glennon writes that the UN envisions a world ". . . governed by objective, universal morality rather than by competition for power and shifting national interests."[43] However, today's reality is that the common good

often takes a back seat to the competition for power and the interests of the individual member states. Daalder and Kagan believe that the UN Security Council is divided by conflicting interests, ideology, beliefs about the nature of sovereignty, and the right of the international community to intervene in the internal affairs of nations.[44] The result is a situation where political considerations influence the decisionmaking process to the extent that it leaves an international body which is ineffective and unable to lead. Chris Abbott writes "The problem is that the Security Council's decision to intervene or not intervene in a particular conflict does not reflect internationally agreed objective criteria and legal norms, but the domestic and global imperatives of the Permanent Five."[45]

In addition, recent years have brought the UN a series of internal problems which have caused great damage to its credibility, to include questions of fairness and dedication to the issues surrounding human rights, and charges of corruption in the administration of the oil for food program.[46] No one understood the dilemma facing the UN better than former Secretary General Kofi Annan. In a report to the General Assembly in 2005, he conceded that his organization was formed in a very different period of world history, and that ". . . not all our current practices are adapted to the needs of today." He continued that to survive as a ". . . useful instrument for its Member States and for the world's peoples . . . it must be fully adapted to the needs and circumstances of the 21st century."[47] Natural disasters and humanitarian assistance, the challenges of combating the spread of global jihad and global terrorism, and WMD proliferation, require agile international organizations capable of providing immediate and effective action in defense of peace and stability.

Daalder and Kagan believe that the UN is no longer an effective tool for dealing with today's security challenges. Frustrated by the perceived lack of support from the Security Council for American military action, they argue that the best way to deal with threats to peace and stability is to work through a coalition of democracies.

> A policy of seeking consensus among the world's great democratic nations can form the basis for a new domestic consensus on the use of force. It would not exclude efforts to win (UN) Security Council authorization. Nor would it preclude using force even when some of our democratic friends disagree. But the United States will be on stronger ground to launch and sustain interventions when it makes every effort to seek and win the approval of the democratic world.[48]

Standing organizations or coalitions such as NATO may provide the United States with a viable alternative should UN cooperation fail. NATO was instrumental in bringing the Cold War to a successful conclusion, and to this day boasts the world's only standing, readily useable coalition military capability. According to Ashton Carter and William Perry, NATO provides the security framework for realizing ". . . George Marshall's vision of a Europe united in freedom, peace, and prosperity."[49]

Others argue that this approach would actually perpetuate the problem and create another organization which is even less likely to be effective and more likely to be questioned by the rest of the international community; relying on this approach would actually be counterproductive and might be more harmful than beneficial to American interests. According to Paul Sanders,

> The answer to the problem of the United Nations is not to create something else; it is to use force deliberately, selectively, sparingly and decisively to protect vital U.S. interests and to stop genocide (not civil wars). If America appears to be wise, responsible, and unstoppable in its use of force, we will create our own legitimacy. Democracies and non-democracies alike will respect U.S. actions, even when it is necessary to act outside the U.N. framework.[50]

Whether the answer lies with the UN, NATO, or a coalition of willing democratic nations, it is clear that the United States must work through and include international organizations. Seyom Brown writes, "U.S. foreign policy will always comprise a mix of multilateralism, bilateralism, and unilateralism."[51] The United States may be required to act outside UN guidelines, but it must continue in its attempts to achieve legitimacy through diplomacy. According to Robert Orr, when the United States acts without formal authorization from the UN Security Council, it should continue to work to create alternative strategies to achieve legitimacy.

> Sheer expenditure of effort in this regard helps to generate good will. When the United States follows its own path, it needs to clearly enunciate its interests and the principles at stake that have led it to part ways with other international actors. In all cases, knowing what to expect from the United States—a basic level of predictability—is important to potential future partners in multilateral efforts.[52]

Joseph Nye summarizes the way ahead for U.S. policymakers in the 21st century, stating that "American foreign policy in a global information age should have a general preference for multilateralism, but not all multilateralism. At times we have to go it alone. When we do so in pursuit of public goods, the nature of our ends may substitute for the means in legitimizing our power in the eyes of others."[53]

In the end, there is an undeniable link between legitimacy, multilateralism, and American public support. According to Seyom Brown, "Multilateral direction, authorization, or approval of the use of force by the U.S. abroad confers a degree of legitimacy to military operations, without which it is considerably more difficult to generate the congressional and popular support required to provision and sustain them."[54]

RECOMMENDATIONS

The over whelming lesson of 9/11 is that engagement outside U.S. borders is the only way to ensure peace and security, and that the use of military force is the least preferred method of advancing national interests. While it is clear that there are times when we must use force in support of our interests, policymakers must understand that such interventions are never fast, easy, or cheap. During the Cold War, President Nixon successfully balanced the gap between commitments and resources by trimming military commitments through burden sharing and diplomacy. [55] Robert Orr writes that the United States should pursue multilateralism first, and not as a last resort. "The United States, for all its resources, needs three things that the international community can offer: additional capacity, legitimacy, and burden sharing."[56] When pursuing approval for military action, the United States must seek formal support for its efforts first through the UN. When that body cannot or will not act to support our requests, the United

States should seek informal political consensus with regional organizations or other democracies to form consensus for common action to address a compelling practical necessity. The United States may gain legitimacy even for controversial actions when it works with other multilateral organizations such as NATO, or the European or African Unions as appropriate. Ultimately, the United States must be prepared to act unilaterally and preemptively to ensure the safety and viability of national interests. If this occurs, effective strategic communication will go a long way towards engendering support for our actions and providing the framework for legitimacy. Words without actions can be counterproductive, as Stephen Walt points out,

> . . . defending the legitimacy of American primacy is not primarily a question of "spin" or propaganda, or even cultural exchange. If American foreign policy is insensitive to the interests of others, and if it makes global problems worse rather than better, no amount of public diplomacy is going to convince the rest of the world that the United States is really acting in the best interests of mankind.[57]

If it achieves no other purpose, the U.S. invasion of Iraq has proven that the doctrine of preventive war does not work. Only an imminent threat provides the justification for a preventive strike, and this can only occur if the nation possesses flawless intelligence and unquestioned evidence of a coming strike. In spite of the efforts of Secretary Powell at the UN, the evidence that Iraq possessed WMD and intended to distribute or use them was never strong enough to convince the majority of the international community that war was justified. The absence of any evidence of WMD or significant links between Saddam Hussein and Islamic terrorists made it difficult for the United States to claim legitimacy for its actions in Iraq. Increased levels of violence, even after President Bush declared an end to combat operations, and the scandals of Abu Ghraib and Guantanamo Bay spelled an end to any hopes that the United States had for international help and support.

It is clear that the United States must work harder to engage other nations and attempt to bring them along with us in the pursuit of our vital national interests. The Bush Administration attempted to do this with regards to Iraq, but it had squandered a great deal of its influence when it acted alone and against international opinion in support of its own interests at the expense of the greater good on other issues. The U.S. failure to propose viable alternatives to the Kyoto protocol on global warming and its decision to unilaterally withdraw from the Anti-Ballistic Missile treaty did little to inspire international confidence in U.S. leadership. These events added to international perception that the United States is an arrogant power which cares little for interests outside of its own. To overcome these perceptions and the noncooperation that they engender, the United States must commit itself to resolving issues by peaceful means and to only consider force when diplomatic efforts have failed. By engaging in a strong and effective campaign of public diplomacy, the United States is more likely to find success while defending its interests and maintaining its position as a global leader.

CONCLUSION

The relevance of legitimacy and how it is achieved and maintained is an issue that policymakers will be wrestling with for years to come. The only sure thing is that considerations of legitimacy must be included in any discussion of the exercise of military

power. The United States must be willing and able to act unilaterally on vital issues, but part of leadership is working to engage other nations and bring them along with us. As the world's only superpower, it is clear that the United States has the military strength to act unilaterally. However, when the United States acts preemptively, unilaterally, and seemingly without regard to international sentiment, U.S. interests are prone to suffer long-term damage.

Future efforts at military intervention are likely to be complex, demanding, and expensive, and success will be unlikely without U.S. public support and the support of the international community. The way ahead is far from clear, and policymakers must carefully consider when, where, and how we commit our military forces, and seek ways to ensure legitimacy whenever possible. Often times, the right answer is not to intervene. As Jeffrey Record states, "Future enemies undoubtedly will attempt to lure us into fighting the kind of indecisive, protracted, and politically messy wars into which we stumbled in Vietnam and Iraq. But if such wars are, for the United States, wars of choice rather than wars of necessity, we should think more than twice before entering them."[58]

ENDNOTES - CHAPTER 2

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