Mr. Speaker, as all

Members know, this resolution involves

a difficult set of decisions that

neither the Congress nor the executive

can duck. Anyone who is not conflicted

in their judgment is not thinking seriously.

For myself, I have enormous regard

for our President and great respect for

his sworn policy advisers, but I have

come to the conclusion that this resolution

misfits the times and the circumstances.

There may be a case for a

regime change, but not for war against

Iraq and its people.

Because time is brief, I would like to

emphasize three points:

One, given the events of 9/11, a doctrine

of preemption has a modicum of

legitimacy. But the greater our power,

the more important it is to use it with

restraint. Otherwise, it will be seen as

hubristic, with a strong prospect of

counterproductive ramifications. Engaging

in war the wrong way can too

easily jeopardize the underlying conflict

against terrorism and undercut

core American values and leadership

around the world.

Two, there are many so-called end

game elements that have not been adequately

addressed. They range from the

dilemma of street combat to problems

of postwar governance to worldwide

Muslim reaction.

Three, and most profoundly, this resolution

is based on a misunderstanding

of modern science as it applies to weapons

of war. The assumption is that

there is a compelling case to preempt a

nuclear weapons program, but what is

little understood is that Iraq already

controls a weapon of mass destruction

more dangerous than nuclear bombs,

biological agents, and what is underestimated

is the nature of his likely response

to outside intervention.

The tactical assumption is that Saddam

will be on the defensive with an

American and British attack, but the

likelihood is that, as troubling as end

game problems are, the ‘‘beginning

conflict’’ issues may be the most difficult

ever confronted in the region and

possibly in all of modern warfare. When

a cornered tyrant is confronted with

the use or lose option with his weapons

of mass destruction and is isolated in

the Arab world unless he launches a

jihad against Israel, it is not hard to

imagine what he will choose.

Israel has never faced a graver challenge

to its survival. The likelihood is

that weapons of mass destruction, including

biological agents, will be immediately

unleashed in the event of

Western intervention in Iraq. In the

Gulf War, Saddam launched some 40

Scud missiles against Israel, none with

biological agents. Today, he has mobile

labs, tons of such agents and an assortment

of means to deliver them.

It is true that his stockpiles could be

larger in years to come, but Members

must understand that the difference

between a few and a few hundred tons

of anthrax or plague may not be determinative.

These are living organisms

that can multiply. They can invade a

region and potentially the planet.

The most important issue is not the

distinction between the various resolutions

before us, each should be defeated,

but the need to rethink our responsibilities

in the manner in which

they are carried out. Regime change

can be peaceful, it can be discreetly

violent, but it need not necessarily entail war.

Over the last half century America’s

led the world in approaches expanding

international law and building up

international institutions. The best

chance we have to defeat terrorism and

the anarchy it seeks is to widen the application

of law and the institutions,

including international ones that make

law more plausible, acceptable and, in

the end, enforceable.

Strategies of going it alone, doctrines

of unilateralism must be reviewed

with care. Nothing plays more

into the hands of terrorists than America

lashing out. Nothing is more difficult

for them than international solidarity.

Americans would be wise to

craft strategies which are based on our

original revolutionary appeal to a decent

respect for the opinions of mankind.

We used to have a doctrine of MAD,

mutually assured destruction, between

United States and the USSR. No one

seriously contemplated aggression because

of the consequences.

Today, for the first time in human

history, we have a doctrine of mutually

assured destruction between two smaller

countries, Iraq and Israel, one with

biological weapons, the other nuclear.

The problem is that an American intervention

could easily trigger an Iraqi biological

attack on Israel which could

be met by a nuclear response. Not only

would we be the potential precipitating

actor but our troops would be caught in

crosswinds and crossfire.

This is a strategic precipice we

should step back from.

The United States today faces a series of

challenges unprecedented in our history.

The 20th century was symbolized by three

great international struggles: World War I and

the challenge of aggressive nationalism, World

War II and the battle against fascism, and the

Cold War challenge of defeating communism.

Now the United States is confronted with

the menace of international terrorism, a phenomenon

as old as recorded history, but with

elements that are new because of the potential

for access to weapons of mass destruction

(WMD), the manipulation of religious precepts,

and the transnational character of international

terrorism in a globalized world.

At issue today is the potential crystallization

of these challenges in the Iraqi regime of Saddam

Hussein, and the appropriate response of

the United States and the world community.

In American history explaining what we do

and why we do it is important. Our first revolutionary

document, the Declaration of Independence,

was an exposition of political philosophy

and an explanation of grievances that

compelled Americans to act. Today, in a world

in which rumor and paranoia and distrust is

pervasive, we are obligated to be precise in

laying out our objectives and the rationale for

military or other actions.

In this regard, there is in Eastern history a

hallowed intellectual methodology for determining

when a particular military intervention

may be considered ethical. This doctrine, developed

by ecclesiastics and jurists, followed

by statesmen, instinctively accepted by the

peoples of many countries in tradition and

right, is the doctrine of just war. What is this

doctrine? Briefly, it holds that for war to be

considered just, it must be animated by a just

cause and informed by righteous intention,

that it be undertaken by lawful political authority

and only as a last resort, and that resort to

force be proportionate to the nature of the

wrongs committed.

The just war issue is relevant for two interrelated

reasons. First, the issue of war involves

the gravest of moral questions. Second,

not merely the theory but the history of

international relations since the First World

War embodies distinctions between just and

unjust causes of war. The Covenant of the

League of Nations, the United Nations Charter,

and the Charter of the Military Tribunal at

Nuremberg all reject the doctrine of realpolitik,

the anarchical notion that ours is a Hobbesian

world where might makes right.

Although there is a ‘‘realist’’ school of international

relations theory which asserts that

raw national interest considerations alone

should govern all policy making, the more progressive

view is that modern world politics are

founded upon a conception of international society

analogous to the laws and customs of

coercion in domestic societies, that resort to

violence in international affairs must be regarded

either as response to lawful police action

or crime. In other words, resort to armed

force in international affairs is legitimate only if

it is used on behalf or in service to the fundamental

principles and purposes undergirding

international law.

Thus the moral philosopher Michael Walzer

observes that ‘‘aggression is the name we

give to the crime of war.’’ Indeed, the founders

of the United Nations were determined, in the

words of the Charter, ‘‘to save succeeding

generations from the scourge of war . . . and

to ensure, by the acceptance of the principles

and the institution of methods, that armed

force shall not be used, save in the common

interest.’’ Similarly, the Charter obligates the

Member States of the UN to ‘‘settle their international

disputes by peaceful means,’’ as well

as ‘‘refrain in their international relations from

the threat or use of force against the territorial

integrity or political independence of any

State, or in any manner inconsistent with the

Purposes of the United Nations’’ (Articles 2(3)

and 2(4)). Instead, the Charter attempts to enshrine

a system of collective security in which

the security Council is authorized to ‘‘determine

the existence of any threat to the peace,

breach of the peace, or act of aggression’’ and

to ‘‘decide what measures shall be taken . . .

to maintain international peace and security’’

(Article 39).

In postwar American diplomacy, the classic

exposition of this principle was stated by

President Truman in October 1945, when he

declared that the fundamentals of American

foreign policy would rest in part on the proposition

‘‘that the preservation of peace between

nations requires a United Nations Organization

comprised of all the peace-loving nations of

the world who are willing to use force if necessary

to insure peace.’’

The concept of international law enforcement

through collective security, therefore, is

embodied in the UN Charter and is an integral

part of international law, as well as—through

the Supremacy Clause—the law of the United

States.

Here, the constitutional duty of Congress is

clear. Not only does the Constitution vest the

power to declare war in Congress, but also it

further contemplates that a status or condition

fairly described by armed hostility between the

U.S. and another state—whether a declared or

undeclared war—must be legislatively authorized.

The framers of the Constitution believed that

the gravest of all governmental decision—the

making of war—should not be the responsibility

of a single individual. It should be taken

by a democratically elected, geographically

and socially balanced legislature after careful

debate and deliberation. It would either be tyrannical

or irresponsible for a Congress of, by,

and for the people to shirk its responsibility

and transfer the power to make war to the

Presidency. In America, after all, process is

our most important product.

In this context, neither the Congress nor the

Executive can duck the fundamental question

of Constitutional fidelity.

Perspective is always difficult to apply to

events of the day, but it would appear that in

wake of the events of 9/11 a watershed in

American history occurred. A concerned terrorist

attack was perpetrated against our institutions,

people, and way of life. The imperative

to respond is clear. Less clear how and

against whom.

In the period following 9/11 the Executive

Branch began to articulate a bold new doctrine

of national security, both to shape our response

to the new dangers of international terrorism

and to define a new vision of leadership

for the United States in world affairs.

According to this new national security concept,

the United States should be prepared to

act decisively and unilaterally to eliminate potential

terrorist threats. Because suicidal terrorists

use anarchist techniques rather than rely

on traditional armies, the case for America to

reserve the right to take preemptive, anticipatory

military action in the name of self-defense

must be considered. In practical terms,

since terrorist groups may either be assisted

by foreign powers, or seek sanctuary in weak

countries with limited control of their own borders,

the option to intervene in another nation-state

to constrain rogue behavior cannot be

ruled out. Likewise, the doctrine contemplates

the need to counter the threat that certain despotic

regimes—like those the President labeled

as evil: Iran, Iraq and North Korea—may

develop or actually possess weapons of mass

destruction and threaten to use them or put

them in the hands of terrorists. In addition, because

our own power is so disproportionate,

and because the threat from international terrorists

so grave, the strategy suggests that

America need no longer be constrained in its

actions by international rules, treaties, and

even traditional security partnerships.

While elements of the new doctrine are not

new, the public articulation of a doctrine of

preemption is in fact a novel departure. In

terms of precedents, the Congressional Research

Service reports that the U.S. ‘‘has

never, to date, engaged in a ‘preemptive’ military

attack against another nation. Nor has the

U.S. ever attacked another nation militarily

prior to its having first been attacked or prior

to U.S. citizens or interests having first been

attacked, with the singular exception of the

Spanish-American War.’’ The latter being

unique, in that the principal stated goal of U.S.

military action was to compel Spain to grant

Cuba its political independence.

There is of course ample precedent for the

United States using its military to intervene in

other nations to support our national security

interests. Citing the Monroe Doctrine, which

outlined American objection to European colonialism

in this hemisphere, the United States

intervened repeatedly in the Caribbean and

Central America in the 19th and 20th centuries.

In addition, the U.S. employed overt

military force to seek regime change in Mexico

in 1914 and Panama in 1989, as well as covert

action in Iran and Central America in the 1950s.

Of greater historical relevance, the most significant

instance in which the U.S. seriously

contemplated preemptive military action was

during the Cuban missile crisis of October

1962. Despite the introduction by the Soviet

Union of nuclear-capable ballistic missiles into

Cuba that could threaten most of the eastern

United States, President Kennedy considered

and rejected preemptive options, imposed a

U.S. military ‘‘quarantine’’ around Cuba, and

ultimately reached a peaceful diplomatic solution.

Hence it is imperative that Congress and

the American people debate the long-term foreign

policy consequences of a potential, largely

unilateral, strike against Iraq that may well

not be supported by many of our historic allies.

It is also crucial that Congress review the

logic and implications of a new global strategy

apparently premised on go-it-alone interventionist

themes which, if taken to extreme,

could erode the foundation of the rule-based,

post-World War II international system the

United States largely helped to create.

While the threat of transnational terrorism

self-evidently requires a robust response, the

implication of the United States using its extraordinary

power and authority at this critical

juncture in world history to ensconce and legitimize

the principle of preemption as a basis

for conduct in international relations is profound.

One need only to contemplate the application

of this principle by others elsewhere,

such as South Asia, the Taiwan Strait, or the

Middle East, to grasp its potential reach.

It is suggested to many around the world

that the United States may be disproportionately

relying on military power rather than the

strength of law and persuasion to attempt to

‘‘lock in’’ a favorable order that commands the

allegiance of others. In the language of political

scientists, our new approach could suggest

a strategy less of transformation than dictation.

The question is not simply whether the new

doctrine of preemption has a modicum of legitimacy—

the events of 9/11 suggest it does—

but whether it is applied with proper judgment

and appropriate restraint. The greater the

power, the more important it is used with care.

Otherwise, the danger is the use of force will

be viewed as hubristic with its application likely

to be counterproductive. Iraq is a case in

point. The goal of regime change must involve

an approach that enhances rather than retards

international support for core American values

like democracy and respect for individual

rights. Engaging in war the wrong way can

jeopardize the outcome not only of the underlying

conflict against terrorism but American

leadership on a host of international issues

from arms control to commerce to the environment.

Unilateralist approaches sow unease and

distrust of American power and American motives

from Brussels to Johannesburg, from

Sao Paulo and to Seoul. They dissipate reservoirs

of good will for the United States and

reduce, rather than expand, the pool of cooperation

that we can draw on in the future.

The nature of the foreign policy challenges

we face—curbing the proliferation of weapons

of mass destruction, eliminating terrorism,

combating the spread of diseases like HIV/

AIDs, promoting free trade and market economics,

advancing respect for human rights

and the rule of law—cannot be met by one

country, no matter how powerful, acting alone.

Three years ago in one of the most irrational

acts of the Senate in the 20th century a

comprehensive test ban (CTB) was turned

down. Upon taking office, the Bush Administration

concurred in this judgment, and then in

a little noticed decision rejected a protocol that

had been long in negotiation to the Biological

and Toxin Weapons Convention (BWC) which

would have added new verification provisions

to that treaty. Ironically, if a CTB had been

ratified, there would be more worldwide support

for U.S. efforts to deter small states from

obtaining nuclear arms and if the BWC protocol

had been adopted the case for inspectors

entering Iraq would be iron clad.

Count me among those who believe Saddam

Sussein must be removed from office

and his weapons of mass destruction destroyed,

but also as one who is concerned

with the unilateral veer in American foreign

policy. We cannot lead the world unless we

pay attention and, to the maximum degree appropriate,

give respect to the judgments and opinions of others.

Policeman for the world is a lonely beat. It

makes us a target. More, not less, vulnerable.

Leadership requires resolve; it also demands

restraint, and an understanding that

there are both prudential and real limits to

America’s unparalleled power. Likewise leadership

requires magnanimity, an understanding

of what causes people to rebel, and

an uplifting, inclusive vision of a world order

which realistically deals with the causes of conflict.

At issue with the Iraqi crisis is less an outcome

where individual nation-states may be

winners or losers, but one in which the international

system has an enormous stake. From

challenge springs opportunity. Hopefully, once

the storm clouds have passed, the international

community will be able to conclude

that the United Nations has functioned as its

founders intended. But if this conflict is not resolved

in a way that upholds the authority and

the credibility of the United Nations, our current

international structure will be seriously deranged

and grievously jeopardized.

In this regard, as the prospect for conflict increases,

the danger of unintended martyrdom

also rises. The United States must be careful

to ensure that its policies do not turn a tinhorn

Hitler into an Islamic Allende.

Hence I would urge the Administration to

make it clear to Saddam that in the event he

continues to defy the will of the United Nations

he will inevitably find himself in the docket before

Nuremberg-like proceedings—either the

newly established International Criminal Court

or perhaps an ad hoc tribunal—for egregious

violations of internationally recognized human

rights and arms control conventions.

Potentates, whether petty or mighty, who

through violation of international law attempt to

take the world hostage must be held accountable.

Likewise, the U.S. and UN should make

clear that if any individual in Iraq participates

in usage or unleashing of a weapon of mass

destruction, they also will be held accountable

as war criminals.

Tragically, the United States has not been

able to become a party to the new ICC, which

will be the first permanent international court

with jurisdiction to prosecute the most heinous

individual violators of human rights—genocide,

war crimes, and crimes against humanity.

By background, the United Nations, many

human rights organizations, and many U.S. allies

have expressed support for the new court.

The Administration, however, has renounced

any U.S. obligations under the treaty.

Although the U.S. has valid concerns about

the ICC—chiefly that the ICC might become

politicized and capriciously assert jurisdiction

over U.S. soldiers or high officials charged

with ‘‘war crimes’’—our belligerent opposition

to the Court also carries obvious downside

risks to American leadership.

America’s well-deserved reputation as a

champion for human rights and extension of

the rule of law has been called in question.

Our efforts to play hardball in the UN Security

Council by threatening to withhold support for

UN peacekeeping missions unless the U.S. is

granted immunity from the ICC alienated

friends and allies abroad. The withholding of

military assistance to members of the ICC

may be seen as an attempt to undermine the

court and influence the decisions of other

countries to join the ICC. By demanding special

treatment in the form of immunity from the

ICC, the United States is seen as bolstering

the perception of its preference for a unilateral

approach to world affairs and a determination

to operate in the world exclusively on our own

terms. As a result, U.S. efforts to build coalitions

in support for the war against terrorism

as well as the enforcement of UN resolutions

against Iraq may have been impaired.

As an early advocate for the establishment

of a permanent international criminal court

based on balanced recognition of international

statutes, I confess to being chagrined both at

the inability of the international community to

accommodate legitimate American concerns,

and the all-or-nothing approach of our government

that has left us without effective means

to ensure that the ICC operates in ways that

are consistent both with credible rule-of-law

principles and with sensitivity to U.S. interests

designed to advance democratic governance.

The problem is that as a great power called

upon to intervene in areas of the world or disputes

such as the Balkans, Afghanistan and

troubled areas of the Middle East, the U.S. is

vulnerable to charges being leveled against

actions which we might reasonably consider to

be peacekeeping, but another power or government

might charge to be something very

different. For instance, what would happen if

Serbia were to bring a case against an American

naval pilot when such a pilot is operating

under both a U.S. and NATO mandate? The

President has suggested we should, exclusive

of all other countries, be allowed to veto over

applicability of international law with regard to

the ICC. Many other countries, including

strong U.S. allies, have angst about this demand

because they see this approach as establishing

the principle of one country being

entitled to operate above the law.

This is not an irresolvable dilemma. When

the ICC treaty was under negotiation, it was

the assumption of many that the Security

Council where all the permanent members

have a veto would play a determinative role in

bringing matters better the ICC. If such was

the case, the United States because of its

veto power within the Security Council could

fully protect itself as could the other permanent

members. Unfortunately, because the

past administration played an ambivalent role

in development of the treaty, it failed to get the

nuances right. This common sense approach

was not adopted and the Bush administration

was put in the embarrassing position of objecting

to an important treaty because of the failed

diplomacy of its predecessor.

Based on discussions with European officials

it is my understanding that there may be

an inclination to seek a reasonable compromise

on treaty language, even at this late

date. It would appear to be an umbrage to

many countries to craft a provision excluding

the United States alone from ICC jurisdiction,

but it would seem reasonable on a process

basis to return to a Security Council role. On

this basis the U.S. and the international community

could be credibly protected.

The court would function as a treaty organization

founded on state consent, while respecting

Security Council authority to refer any

matters affecting international peace and security

to the court’s jurisdiction. This approach

has the advantage that it does not make a

pure exception for the United States. Understandable

concerns of some countries about

inequitable protection of the nationals of permanent

members of the Council would need

to be balanced against the enhanced durability

and legitimacy of the court. A protocol to the

Treaty ensconcing this approach should be

actively pursued today.

Laws, to be effective, must constrain governments

in their foreign policies as well as individuals

in domestic acts. In order to hold

governments accountable there must be individual

accountability at the highest as well as

lowest levels of society. Justice must be

brought to the international frontier or life for

too many will, in Hobbes’ piercing phrase,

continue to be ‘‘nasty, brutish, and short.’’

The central issue in classic just-war theory

is the cause question. Just-war theorists from

Augustine to Grotius typically referred to an offense

that was a just cause for war as an

‘‘injuria,’’ a term that meant both injury and injustice.

There were three generally accepted

just causes of war: defense against aggression,

recovery of property, and punishment.

Wars waged for the first cause were by their

nature defensive. Wars taken to avenge injustice

and to punish the perpetrators of injustice

were offensive in the sense that defense of

one’s own territory was not necessarily at issue.

It is sometimes forgotten that the United

States is engaged in military combat operations

over Iraq almost every day, maintaining

‘‘no-fly’’ zones over the northern and southern

parts of the country. A decision by Iraq to ban

almost all U.N. inspections on October 31,

1998, led the U.S. and Britain to conduct a 4-

day air operation against Iraq on December

16–20, 1998 (Operation Desert Fox). The two

allies launched approximately 415 missiles

and dropped more than 600 bombs targeted

at Iraqi military and logistical facilities. Since

the December 1998 operation, the U.S. and

Britain have carried out air strikes against Iraqi

air defense units and installations on a frequent

basis, in response to Iraqi attempts to

target allied aircraft enforcing the no-fly zones.

However, to launch a full-scale military invasion

of Iraq, fully considering its potential consequences,

based solely on violations of the

no-fly zones would appear to be out of proportion

to the offense occasioning it.

A potentially more compelling basis for just

cause would be action undertaken in self-defense,

in this case anticipatory self-defense.

Although the UN Charter is premised on the

concept of collective security, it is important to

recognize that the Charter also recognizes the

right of nations to use force for the purpose of

self-defense. Article 51 provides that nothing

in the Charter ‘‘shall impair the inherent right

of individual or collective self-defense’’ in the

event of ‘‘armed attack.’’ The question, of

course is what constitutes armed attacks.

In this regard, no American administration

has ever sought to give an expansive interpretation

to the definition of an armed attack. Indeed,

none of our interventions since the end

of World War II have relied for justification on

the doctrine of preemptive attack.

Tellingly, when the United States was directly

threatened during the 1962 Cuban missile

crisis, President Kennedy did not invoke

any notion of ‘‘anticipatory self-defense.’’

While the risks of nuclear conflagration were

high, the president’s legal arguments were

conservative: the imposition of a naval quarantine

was justified by reference to the regional

peacekeeping provisions of the U.N.

Charter. More recently, when America has

claimed self-defense, it has been in less controversial

settings—citing a clearly defined

threat to U.S. citizens or, after September 11,

the need prevent a second attack by hostile

terrorists.

Rather than expanding the scope of preemptive

attack, American statesmen have historically

played leading roles in carefully limiting

the doctrine.

The classic formulation of the right of preemptive

attack was provided by secretary of

State Daniel Webster. In 1837, the British

sought to stamp out a simmering revolt in

Canada that had received support from private

militias in the Untied States. To cut off this

source of support, British troops launched a

night raid into New York, burning an American

ship and sending it over Niagara falls.

Some five years later, Secretary of State

Webster reached an agreement with the Foreign

Office that prohibited future cross-border

raids. Preemptive force under customary international

law could be justified only if there was

a ‘‘necessity of self-defense, instant, overwhelming,

leaving no choice of means, and no

moment for deliberation,’’ and if the use of

force in such circumstance were proportional

to the threat—not ‘‘unreasonable or excessive.’’

Webster’s formulation remains the core

sense of international law today.

Some might object that these standards are

unreasonable and inappropriate for a new era

of global insecurity hallmarked by the threat of

stateless terrorism. On the other hand, it surely

cannot be in our interest to legitimize war by

hunch. The danger is that new standards we

seek to reserve exclusively for our use become

legitimate as well for other nations—

such as Russia, China, India and Pakistan. Do

we want to empower others to claim that

issues relating to self-defense are not a proper

subject of international concern, but are solely

unilateral national decisions unreviewable by

any state or multilateral organization? Without

clear standards, whenever a nation believes

that its interests, which it is prepared to characterize

as vital, are threatened, then its use

of force in response would become permissible.

As to the precise nature of the threat posed

by Saddam, the historical record is wellknown.

Saddam Hussein is a menace to his

own people and a continuing threat to the Middle

East and the Persian Gulf. Saddam is

without question an international criminal with

a long rap-sheet.

He began successive wars of aggression

against Iran and Kuwait, amassed a large inventory

of chemical and biological weapons in

violation of the Biological and Toxin Weapons

Convention (BWC), and has feverishly sought

to build nuclear arms in violation of the Nuclear

Nonproliferation Treaty (NPT). On the orders

of Saddam Hussein, his army committed

some of the worst war crimes in half a century,

gassing Kurdish villages and killing thousands

of innocent civilians. Even after its defeat

in the Persian Gulf War, Saddam sought

to hide and even reconstitute his weapons of

mass destruction in violation of numerous UN

Security Council Resolutions. There is little

dissent, therefore, from the proposition that

the Iraqi regime represents a continuing threat

to the region and a challenge to international

order. Indeed, regime change has been the official

policy of the United States under two

presidents, Bill Clinton and George Bush, since 1998.

What is the urgency of the current threat

from Saddam Hussein? Despite some uncertainties,

a great deal is known about Iraqi military

capabilities, particularly its conventional forces.

Despite the loss of some 40 percent of its

army and air force as a result of the Gulf War,

Iraq remains a major military power by regional

standards. Iraq still has armed forces

with around 425,000 men, with some 2,200

main battle tanks, 3,700 other armored vehicles,

and 2,400 major artillery pieces. It also

has 300 combat aircraft with potential operational status.

By all accounts, sanctions and the impact of

the Gulf War have had a substantial negative

impact. The regime’s inability to recapitalize

and modernize its armed forces means that

much of its nominally large military capacity is

either obsolescent or obsolete, with doubtful

combat readiness, and will be difficult to sustain in combat.

Much more ominous are Iraq’s weapons of

mass destruction. By way of background, UN

Security Resolution 687, passed in April 1991,

established the formal cease-fire between Coalition

forces and Iraq. Key among the terms

was the prohibition against Iraq retaining, acquiring,

or developing WMD and long range

missiles. In addition, there was a demand that

Iraq unconditionally accept the destruction, removal

or rendering harmless its WMD under

international supervision. However, from the

start of United Nations Special Commission

(UNSCOM) in 1991 through their termination

in 1999 Iraq engaged in the techniques of deception

and denial in order to conceal the full

extent of its WMD programs. Although there

were some successes in defeating Iraq’s concealment

efforts, many other failed.

In December 1999, one year after UNSCOM

left, the UN Security Council passed Resolution

1284, reaffirming all previous UN Security

Council resolutions, disbanding UNSCOM, and

establishing the UN Monitoring, Verification,

and Inspection Commission (UNMOVIC). Until

September 16, Iraq had rejected resolution

1284 on the grounds that it does not set a

clear timetable or criteria for lifting sanctions.

Although the Iraqi position may well be a ruse,

Baghdad now claims with semantic waffling to

be willing to allow the return of weapons inspectors without conditions.

As is well known, on the eve of the Gulf

War, and in violation of its commitments under

the NPT, Iraq was on the verge of producing

significant amounts of heavily enriched uranium

that would have allowed it within two or

three years to produce a nuclear weapon. Fortunately,

the Gulf War heavily damaged Iraq’s

nuclear facilities. By the end of UN inspections

in 1998, the International Atomic Energy

Agency (IAEA) was confident that Iraq’s indigenous

nuclear weapons program had not produced

more than a few grams of weapons

useable material. However, Iraq’s nuclear potential

was not completely eliminated. The scientific

and technical expertise of Iraq’s nuclear

program survived, and Baghdad has tried to

keep its core nuclear teams in place working

on various civilian projects.

Publicily available consensus analysis produced

by the London Institute of International

Strategic Studies and others suggests that:

Iraq does not possess facilities to produce

fissile material in sufficient amounts for nuclear

weapons, that it would require several

years and extensive foreign assistance to

build such fissile material production facilities,

but that it could assemble nuclear weapons

within several months to perhaps one or two

years if it could obtain relevant fissile material.

Prior to the Gulf War, Iraq produced Biological

Weapons (BW) agents in volume. Subsequent

to it invasion of Kuwait, Baghdad accelerated

large scale BW agent production and

assembled rudimentary BW munitions. These

weapons were distributed to military units, who

were delegated to use them if allied forces advanced

on Baghdad or used nuclear weapons.

Most of the regime’s key BW facilities, which

had been hidden from Western intelligence

agencies, escaped attack during the Persian

Gulf conflict. But in violation of the BWC that

Iraq ratified as a condition of the 1991 Gulf

War cease-fire agreement, Saddam continued

to conceal his BW program until 1995. Since

December 1998 when UN inspectors left the

country, there has been virtually no verifiable

information about the status of Iraq’s BW program.

Credible, public reports suggest Iraq can

produce new stocks of bulk BW agent, including

botulinum toxin and anthrax. BW agent

could be delivered by short range munitions

including artillery shells. Delivery by ballistic

missile is more problematic. Refurbished L–29

trainer aircraft could operate as weapons-carrying

unmanned aerial vehicles (UAVs) with a

range of over 600km. Such UAVs might be

considerably more effective than ballistic missiles

in delivering CBW. Commando and terrorist

attack is also possible.

The best estimates of the current situation

suggest that: (1) Iraq has retained substantial

growth media and BW agent (perhaps thousands

of liters of anthrax) from pre 1991

stocks, and the regime is capable of resuming

BW agent production on short notice at existing

civilian facilities and in new mobile laboratories;

(2) it could have produced thousands of

liters of anthrax, botulinum toxin and other

agents since 1998, but actual stocks are unknown.

As is well known, Iraq used chemical weapons

extensively against Iranian troops from

1982–1988. In the years immediately prior to

the Gulf War, Iraq made further progress in

developing binary chemical munitions, producing

and weaponizing the advanced nerve

agent, VX. The Gulf War however devastated

Iraq’s primary CW production facilities and a

large portion of its stockpile of CW munitions.

Through 1998, UNSCOM was able to dispose

of large quantities of CW munitions, bulk

agent, precursors and production equipment

that were not destroyed in combat. In addition,

unless Iraq has managed to modernize its

1990-era special warheads, its ability to disseminate

effectively CW agent on ballistic missiles

is questionable, since so much agent

would be destroyed on impact. Iraq’s known

ability to marry chemical warheads to its rocket

and artillery pieces (with ranges up to about

18.5 miles) could complicate operations for

opposing forces, who would be required to

wear protective gear.

The best publicly available assessment of

the current situation is that: (1) Iraq has probably

retained a few hundred tons of mustard

and precursors for a few hundred tons of

sarin/cyclosarin and perhaps similar amounts

of VX from pre-1991 stocks; (2) it is capable

of resuming CW production on short notice

(months) from existing civilian facilities; and

(3) it could have produced hundreds of tons of

agent (mustard and nerve agents) since 1998.

Actual stocks, however, are not known.

Iraq of course prohibited by UN Resolutions

from possessing ballistic missiles with a range

greater than 150km. In the 1970s Iraq began

to import Scud B missiles with a range of

300km from the Soviet Union and acquired

roughly 820. In the 1980s Iraq worked to modify

the Scud missiles in order to double their

range. The new missile, called the al Hussein,

with a range of 650km, was used during the

war against Iran. In the wake of the Gulf War,

much of Iraq’s missile infrastructure lay in

ruins. Moreover, the U. S. and U. K., during

Operation Desert Fox in December 1998, attacked

a number of missile related facilities.

During the inspections period Iraq continued

to conduct small scale covert research and

development on proscribed missiles. In addition,

Iraq continued missile related procurement

efforts. UNSCOM attempted to account

for all imported missiles and for indigenously

produced missiles, but that accounting was incomplete.

It is prudent to assume that Iraq has

been able to retain some of its proscribed missiles.

Also, it is likely that Iraqi engineers will

have been able to increase the range in its

short-range al Samoud missiles to 200km with

a few hundred kilograms payload suitable for

CBW delivery.

The publicly available estimates of Iraq’s

missile capabilities suggest that: (1) Iraq has

probably retained a small force of about a

dozen 650km range al-Hussein missiles,

which could be armed with CBW warheads,

capable of striking Israel, Saudi Arabia, Turkey,

Iran and Kuwait; (2) the Iraqi regime does

not possess facilities to produce long range

missiles and it would require several years

and extensive foreign assistance to construct

such facilities; (3) it may have a small number

of al Samoud missiles with ranges of up to

200km able to strike Kuwait but only if deployed

within the southern no fly zone; (4) Iraq

is capable of manufacturing rudimentary CBW

warheads, while its development of more advanced

designs is unknown; and (5) Iraq has

been developing very small unmanned aircraft

suitable for CBW delivery.

According to the Department of State, Iraq

is also a state sponsor of terrorism. Saddam

Hussein’s brutal regime has provided headquarters,

operating bases, training camps, and

other support to terrorist groups fighting the

governments of neighboring Turkey and Iran,

as well as to hard-line Palestinian groups.

During the 1991 Gulf War, Saddam also commissioned

several failed terrorist attacks on

U.S. facilities. After the war, Saddam attempted

to assassinate former President

Bush. More recently, the question of Iraq’s link

to terrorism has become more urgent with

Saddam’s determination to develop weapons

of mass destruction, which could be shared

with terrorists.

At the present time, there is no hard evidence

linking Saddam to the 9/11 attacks, and

Iraq denies any involvement. However, his

government expressed sympathy for those

who attacked us and some Iraq watchers suspect

Saddam was at least indirectly involved.

In this regard, Czech officials reported last

year that Muhammad Atta, one of the September

11 ringleaders, met an Iraqi intelligence

agent in Prague months before the hijackings,

but U.S. and Czech officials subsequently

cast doubt on whether such a meeting

ever happened. Some militants trained in

Taliban-run Afghanistan are helping Ansar al-

Islam, a Kurdish extremist group that Suddam

uses to harass his own Kurdish foes. Finally,

al-Qaeda members fleeing Afghanistan have

reportedly hid in northern Iraq, but in areas

beyond Saddam’s control. In addition, evidence

has recently come to public light suggesting

a wider array of contacts between al-

Qaeda and the Iraqi regime than had previously

been know, including hospital care for

an al-Qaeda leader.

In this context, the case for military intervention

at this time rests on three key assumptions:

that the containment of Iraq through

sanctions is a failed policy; that the Cold War

concept of deterrence is no longer a viable

strategy for dealing with an erratic Iraqi leadership

potentially allied with al-Qaeda or other

terrorists; and that new unrestricted weapons

inspections, even if Saddam were to agree to

them, are unlikely to be effective.

There is perhaps a fourth, albeit often

unstated basis for intervention: that deposing

Saddam and establishing a democratic, western-

oriented government in Baghdad would

decisively reshape the politics of the region in

a manner highly beneficial to the United

States, by delegitimizing the forces of radicalism

and creating a powerful model of Islamic

modernity and moderation.

Taken together, these assumptions make a

compelling case for the United States and the

United Nations to seek, both through the enforcement

of existing resolutions as well as

the enactment of one or more additional resolutions,

Iraq’s complete and unconditional

compliance with all relevant UN resolutions,

particularly those demanding the disarmament

of its weapons of mass destruction.

To paraphrase the just war theologian Michael

Walzer in his discussion of the ethics of

Israel’s preemptive intervention against Egypt

in 1967 and an Iraqi nuclear reactor in 1981,

Saddam Hussein, through his continued efforts

to develop weapons of mass destruction

and their means of delivery has demonstrated

a manifest capability and intent to injure, and

a degree of active preparation that makes that

intent a positive danger. The great judgmental

question is, to again cite Walzer, whether in

the current situation waiting, or doing anything

other than military engaging, magnifies the risk.

It is perhaps likely, even highly likely, that

Saddam will ultimately refuse to meet the demands

of the world community. Particularly if

this is the case, authorization by the Security

Council for regime change would be an appropriate

response. But there is little evidence

that suggests the immediate, urgent ‘‘necessity

of self-defense,’’ so instant, and overwhelming,

as to leave the United States no

choice of means, and no moment for deliberation.

The case for regime change is compelling,

but precipitating a change in leadership is

different than going to war with a country and its people.

Containment through targeted sanctions—in

effect, coercive arms control—is fraying, in

part because of irresolution on the part of key

members of the U.N. Security Council, such

as Russia and France, and because both Iraq

and key regional states profit from sanctionsbusting.

According to the General Accounting

Office, Iraq may have earned as much as $2.2

billion last year in illicit exports and oil surcharges.

Over time, the breakdown in containment

would almost certainly create conditions

under which Iraq could produce a nuclear weapon.

Nevertheless, flawed as sanctions may be,

published reports in the press this summer

suggested many senior U.S. military officers

believed that Saddam Hussein poses little immediate

threat and have concluded that the

United States should for the time being continue

its policy of containment rather than intervening directly.

Can Saddam be deterred from aggressive

action now and in the future, particularly if he

is able to successfully accelerate development

of weapons of mass destruction? The evidence

is mixed. During the Persian Gulf War,

he refrained from using weapons of mass destruction

because of American and Israeli

threats of nuclear retaliation. He was likewise

deterred from again attempting to attack Kuwait in 1994.

Yet he is so hostile to the United States and

Israel, so bent on regional domination, his

frames of reference and decision-making processes

so opaque, and possibly irrational, and

his ties to international terrorism such as obvious

source of concern, that it is at best an

open question whether a nuclear-armed Saddam

is ultimately deterrable. In the long run, it

is highly probable that no American president

can afford to take that risk.

As to inspections, the evidence suggests

that an intrusive inspections regime can

produce positive results, but can never be fully

reliable or completely effective. In their first

five years, the United Nations Special Commission

in Iraq (UNSCOM) made some

progress toward inspecting and disarming

Iraq’s chemical, biological, and missile materials

and capabilities. The so-called IAEA Action

Team, did the same for Iraq’s nuclear program.

The main problem was that UNSCOM

was never allowed to fully scan the country or

finish its work. Since the Iraqi government terminated

its work four years ago, the country

has been free of monitoring and inspection.

Just war doctrine focuses on right intentions

and prospects for success. Intentions and

goals matter in war. A nation should only

wage war for the cause of justice, rather than

for self-interest or aggrandizement. The issue

of intention must be balanced with concern for

practicalities as well as consequences, both of

which should be considered before declaring

war. The decision to go to war must be essentially

protective; the goal of war is to obtain a

just and durable peace. The ancillary requirement

that there must be prospects for success

means that the use of arms must not produce

negative effects and disorders graver than the

evil to be eliminated.

In this case the risks of inaction are real; the

risks of action extraordinary. The only certainty

is that any military action involving a great

power will bring about unintended consequences.

It is a distinct possibility but not

certainty that conflict with Saddam will be

short and decisive, as it was during the Gulf

War. It is also possible that a new regime can

be found and put in place with as much ability

and legitimacy as in Afghanistan.

On the other hand, one should always hope

for the best but plan for the worst. America’s

greatest living statesman, George F. Kennan,

recently made the sage observation that ‘‘war

has a momentum of its own, and it carries you

away from all thoughtful intentions when you

get into it. Today, if we went into Iraq . . . you

know where you begin. You never know

where you are going to end.’’

Many have expressed concern about the

‘‘end game’’—the difficulty of potential street

combat, of establishing legitimate government,

of dealing with the long-term implications for

American interests in the Muslim world of an

intervention in Iraq. But concern for the ‘‘end

game’’ should not cloud the enormous difficulties

of the ‘‘beginning game.’’ What happens

when a strike commences?

What happens to our ability to secure cooperation

in the long-term campaign against

global terrorism? What about American leadership

in the global economy?

From an operational perspective, the assumption

in some quarters appears to be that

once we initiate conflict Saddam will be on the

defensive, hunkering down, perhaps waging

defensive guerrilla warfare in the cities and

countryside, while the United States and its allies

enjoy the initiative.

This may be the case, but Saddam has had

a lot of time to strategize on how to maximize

American casualties, energize potential support

outside Iraq—including terrorists—and increase

his martyrdom.

My concern is that Israel may be underestimating

the potentially devastating effects of

a biological weapons assault while the United

States may be understanding the potential of

a pan-Muslim backlash.

In terms of military pitfalls for the United

States, one ‘‘nightmare’’ scenario involves determined

resistance in Baghdad and perhaps

other major cities by the Iraqi Republican

Guard. Should we be compelled to engage,

the casualties on both sides, including civilians,

could be substantial.

But the greatest danger that we cannot ignore

is the possibility that a campaign against

Iraq expands into a wider conflict within the

Arab world against Israel. Indeed, it is virtually

inconceivable that military intervention against

Iraq will not cause an immediate retaliatory

strike against Israel. In the Gulf War, Iraq sent

39 scud missiles against Israel—missiles that

could have been but were not tipped with

chemical weapons. Chemical weapons were

used with some devastation in World War I

and in closed settings with gruesome ramifications

in the Holocaust. Today the vastly greater

danger is biological agents. Biological

weapons pose a danger thousands of times

greater than chemical weapons. The delivery

of such weapons on missiles, unmanned aircraft,

by hand and or through the mail could

be traumatic for Israel and world society. Likewise,

if Iraq were to launch any kind of weapons

of mass destruction against Israel, Israel

would have to seriously consider a retaliatory

response, perhaps including nuclear weapons.

It is also conceivable that action against

Iraq, particularly a prolonged campaign with

significant civilian casualties, could spark outrage

in the Muslim world, and unleash a new

surge of anti-Americanism. While there is little

support for Saddam Hussein outside of Iraq,

there is extraordinary opposition to America

going to war against a Muslim country. Terrorism

around the world could be supercharged.

Even without Israeli involvement,

friendly governments in Jordan, Pakistan and

Saudi Arabia might be destabilized. A multiyear,

multi-decade or multi-century conflict

could ensue.

Should Saddam’s hold on power or his personal

security be in imminent jeopardy, it

would appear probable that he may utilize the

techniques of terrorism—possibly including

weapons of mass destruction—to defend his

regime and wreak revenge on his enemies.

In addition, it is also conceivable that new

dangers would emerge with a feeble or hostile

successor regime. Chaos, bloodshed and revenge

might follow. Weapons of mass destruction

might fall into a greater number of

hands. An unstable Iraq could be a haven for

terrorists and a continuing threat to regional peace.

Indeed, it is impressive how little, not how

much we know, especially attitudinally in Iraq

and the Muslim world about the potential of

American intervention in Iraq. To what extent

will support be manifested for Saddam? Will

there be disorder, chaos, bloodshed and revenge?

Will the Shia turn on the Sunni minority.

Will the Kurds seek an independent state?

Moreover, it is important to ponder whether

an invasion of Iraq would worsen rather than

reduce the threat of terrorists gaining control

of weapons of mass destruction. Saddam

could decide to disperse his weapons stockpiles,

and the scientists who build them, into

the hands of global terrorists. Even if he did

not order such, in the chaos of war it is conceivable

that individual Iraqi commanders and

scientists might make their own profit-oriented

accommodation with terrorists.

More broadly, it is by no means clear that

regime change in Iraq, even if successfully

carried out, will significantly diminish the threat

from Islamic extremists who share little in

common with Saddam Hussein.

Hence the need for the United States to

pursue a vigorous two-pronged approach in

the Middle East: intensified efforts to resolve

the Palestinian-Israeli conflict and greater

focus on economic development and democratization

in the region.

The importance of resolving the Israeli-Palestinian

standoff cannot be underestimated.

We know from attitudinal surveys that Muslims

generally like Americans and admire American

culture. Many have chosen to immigrate to the

United States. They do not, however, trust our

government. To win the war on terrorism we

will have to convince Muslims throughout the

world that we are, in fact, favor justice and the

creation of just societies everywhere.

All Americans understand we share a common

concern for the fate of the Israeli people

and the viability of the Israeli state. The commitment

of the United States to Israel must be

bedrock. We must support Israel and help

bring peace and stability to the region. There

must be continuity of commitment, but there

must also be recognition of opportunities to

lead. Unfortunately, critical opportunities have

been lost in partial measure because Presidents

were imperfectly skilled and in some

cases wanted to operate in relationship to timing

they hoped to control rather than in relationship

to circumstances and events in the region.

For example, optimism surrounded the Oslo

accord precipitated by President Bush’s father.

Yet the United States lagged in efforts to push

immediately thereafter the logical steps that

should have been taken to create a long-term

framework for peace. To his credit, President

Clinton pressed at the end of his administration

for a breakthrough agreement. At Camp

David, Arafat turned his back on the most

forthcoming peace proposal Israel has ever

formally made. The tragedy of Arafat was not

that he had to accept every parameter of the

proposal put forward by Prime Minister Barak,

but that he failed to make a counteroffer,

thereby destroying prospects for peace, implicitly

thumbing his nose at Israel and the prestige

of the American presidency.

Following the breakdown of the Camp David

talks in July 2000, and the subsequent outbreak

of violence on September 28, the sides

nevertheless agreed to continue negotiations

at lower levels during December and January

2001 at the Egyptian town of Taba. As President

Clinton left office, Barak’s government

had but a few weeks of life left before the

election that brought Ariel Sharon to power.

The outbreak of the violence had made it unlikely

that Israelis would approve any proposal

of concessions to the Palestinians in a referendum.

Nonetheless, both sides hammered

out proposals that came much closer to each

other’s positions than before.

No official summaries of the proposals were

issued, but subsequent leaks provided some

details. The Palestinians, according to Israeli

sources, agreed to a map that would allow

Israel to keep most of its settlements and

about 4 percent of the territory.

But given the short time left to the Barak

government, the preoccupation with the transition

in Washington, and the continuing violence,

the proposals came to nothing. Both

sides had agreed that the proposals would be

binding only if they resulted in an agreement.

The joint communique noted, however, that

foundations had been laid for future discussions.

The new administration held that President

Clinton had attempted to negotiate on his time

frame and increased tension by seeking a resolution

that was not ripe. My sense is that the

Bush team was half right. President Clinton

had pressed on his time frame but erred by

being tardy instead of premature. If pressed

two or three years earlier by the Clinton Administration,

the Barak approach would have

been more sympathically received. And if the

Taba framework had been immediately

pressed on the parties by the new Bush foreign

policy team which was initially so well received

in the Arab world, quite possibly a

breakthrough agreement could have been made.

Two opportunities for resolution of the

Israeli-Palestinian issue, one in this and the

other in the prior Administration, were not

grasped and this circumstance hangs like dangling

fruit to terrorists the world over.

The major US foreign policy concern in the

region must be resolution of the Israeli-Palestinian

issue. All administrations at all times

must dedicate themselves to this challenge. In

this context, the need to achieve peace between

Israel and the Palestinians is of far

greater significance than waging war with Iraq.

Whether we like it or not, whether it is fair or

rational or not, we are simply in a far better

position to deal in whatever way we choose

with Iraq after an Israeli-Palestinian settlement.

It is a far less favorable circumstance if

we attempt to deal with Iraq beforehand.

Some contend that Israel is in a far stronger

strategic position if the United States quickly

and successfully disarms Iraq. This may be

the case. But no country carries greater risks

during the conflict and in its aftermath than

Israel if intervention proves messy, if Iraq is

able to unleash an attack on Israel.

In the Middle East, there are two sets of

value scales. From a Western perspective, the

case for creating and protecting the state of

Israel because of the history of pogroms and

the Holocaust is compelling. From a Muslim

perspective, an argument can be made that

Arab peoples have a historical claim to parts

of the Holy Land and its holy places and no

responsibility for the Holocaust. The challenge

is to take these juxtaposed value systems and

reach a reconciliation both sides can respect

and live with on a long-term basis. My sense

is that somewhere around the points laid on

the table at Camp David and Taba there is a

basis for a credible resolution, but it is very

doubtful given the current state of enmity and

distrust between the parties between the parties

that slow-paced, partial steps can lead incrementally

to a larger vision of peace and accommodation.

Nation-building was used pejoratively during

the last campaign, but America has no choice

but do more ourselves and to press our allies

much more forthrightly for assistance to Afghanistan,

a country in which we effected a

constructive change of government. For all the

unfortunate consequences that can sometimes

befall policy, we are most fortunate to have a

leader in charge that the world can respect.

This circumstance, however, may change

quickly based on reaction to actions inside

and outside of Afghanistan. A U.S. war with a

Muslim country will have wide consequences

elsewhere, some good, some bad, most unpredictable.

Here it should be noted that there has been

relatively little discussion about the commitments,

likely to be of a long-term character,

that Washington must undertake after a military

campaign against Iraq. The term ‘‘regime

change’’ does not adequately describe the full

scope of what we expect to achieve as a result

of a military campaign in Iraq. We would

be expected to work with Iraqis, including

those outside Iraq, to both develop a new constitutional

structrue as well as find credible

post-Saddam leadership—leadership that

hopefully would share our objectives with respect

to the elimination of weapons of mass

destruction, development of democratic institutions,

etc. We will almost certainly need substantial

forces on the ground in order to prevent

bloodletting, secure important economic

and military assets, and prevent possible Iranian

meddling. And although Iraq has substantial

oil reserves and therefore a better resource

base than Afghanistan from which to

assist in financing reconstruction, the costs of

humanitarian assistance and rehabilitation

could nevertheless be in the billions of dollars.

We lack firm estimates of the domestic cost

to the U.S. of a potential conflict. Seat of the

pants White House estiamtes range from $100

billion to $200 billion, with the price of oil estimated

to rise to perhaps $30 a barrel for

some unknown period of time. More recently,

the Congressional Budget Office estimated

that fighting a war with Iraq could cost the

U.S. between $6 and $9 billion a month, with

preparing for a conflict and terminating it later

adding other $14 billion to $20 billion to the total.

The 1991 Persian Gulf War cost $60 billion

in 1991 dollars, with the brunt picked up by

our friends and allies, notably the Kingdom of

Saudi Arabia, Kuwait and Japan. It is unlikely

there will be comparable help in defraying the

costs of a military action and any subsequent

nation-building in Iraq.

Our war aims with Iraq also need clarification.

The goal of the U.S. should not be the

total disarmament of Iraq, as some appeared

to have call for, but the elimination of his

weapons of mass destruction. Disarmament

implies that Iraq cannot have an army, a proposition

no sovereign state is likely to accept.

Indeed, Western policy in the region for decades

advocated a balance of power, not vacuum

of power. The reason to distinguish the

elimination of weapons of mass destruction

versus total disarmament is more than theoretical.

U.S. policy should be based on establishing

a strong unitary Iraq with a professional

army accountable to democratic forces. As we

proceed toward possible invasion, the goal

should be to seek the Iraq army to identify

with the United States, not Saddam.

The challenge is to make it clear that our

goal is more democracy, prosperity, and the

uplifting of Iraqi society, one which can lead

the Muslim world with a model of modern democracy and prosperity.

Saddam is a rogue leader, but Iraqis are not

a rogue people. Care must be taken to distinguish

the leadership from the country itself. No

country or peoples are intrinsically evil, though

individual leaders such as Saddam can clearly be malevolent.

In historical terms, Saddam is a Stalinist.

The case for regime change is real, but the

prospect of our demolishing Iraqi society or

Saddam blowing up his own country’s infrastructure—

bridges and oil fields—is not a

happy one. Perhaps the prospect of such a

catastrophe will lead to regime change precipitated

internally, which could be the maximum outcome for all.

In Just War theory, the criterion of right authority

determines who is to decide whether or

not resorting to war is justified.

Reasonable men and women can agree in

a ‘‘just war’’ context on the moral and legal

authority of the President, acting with the express

authorization of the Congress of the

United States, to initiate a police action to enforce international law.

Likewise, reasonable men and women generally

ought to be able to agree on the moral

and legal authority of the Security Council to

authorize the enforcement of UN resolutions

requiring a country to abide by international

conventions on weapons of mass destruction.

It should be self-evident that while a country

like the United States has an obligation to protect

its citizens without a formal UN resolution,

it is vastly preferable for American strategy to

be based on formal international support.

UN support would impress upon Saddam

Hussein that he is not just facing a United

States Administration, but the will of the world

community. Security Council endorsement

would bolster American security by helping

make it politically possible for others to join in

enforcing international law and by undercutting

the legal and moral base of those who might object.

In this context, the President is to be commended

for taking the case to the United Nations.

He is to be commended for endeavoring

to reach out to the world community by deciding

that the United States should rejoin

UNESCO. He is to be commended for laying

out the challenges Iraq poses to the world

community and to the region. He is further to

be commended to bringing his case to the Congress.

Words matter. Care must be taken in their

use. Words lead to processes that sometimes

make careful judgments difficult to obtain. At

this time, for instance, the case for regime

change is powerful. But this does not necessarily

mean that urgency for military intervention,

even with UN authorization, is compelling.

There have been too many instances

in history where leaders have boxed themselves

in with words, and when actions tied to

words may cause, domino fashion, further actions

to transpire which might not be contemplated

or warranted by the initial statements made.

Utterance restraint is an attribute that has

received less attention and less approval than

should be the case in statesmanship. In this

context, the unintended consequence of describing

countries as evil and personalizing

strategic doctrines must be recognized.

In Vietnam, for instance, the basis for our

engagement stemmed more from a domino

theory of decision-making than the more widely

discussed domino government-toppling potential.

When American presidents make statements,

policy decisions can result which lead

to actions which may not fit the circumstance

in which the statement was originally framed.

More recently, in the Balkans, America got

involved after giving a series of warnings that

if Serbia didn’t go along with the Rambouillet

Accord, the United States and NATO would intervene.

The United States made threats

which were not taken seriously by adversaries

which led to intervention that might not have

occurred if the warnings weren’t made. The

decisions to intervene was made in part because

of a concern about preserving presidential

credibility, and the need to make a particular

president’s words meaningful, despite

the fact that few Americans knew the president

had made statements in this arena.

In the case before us it is suggested that

authorization for use of force may cause others

to act in such a way as to make use of

force unnecessary. But the greater problem

seems to me to be problem of a leader who

pushes for authorization and then faces the

question of follow through. The logic is force

may not be inevitable but its authorization

surely makes a decision for restraint difficult.

There is a thin line between the exercise of

superpower responsibility and the prospect of

superpower folly. The timing, perhaps more

than the substance of this resolution is in

doubt. Judgment and timing must go hand in

hand. It may have been a mistake back in

1991 not to have pursued Saddam because of

our assumption that the Iraqi people would

come to their senses and replace him. But

that failure to act does not necessarily legitimize

assumptions that intervention today can

legally be carried out in the context of resolutions

both Congress and the UN applied a

dozen years ago. The greatest legal case

against Saddam relates less to Security Council

resolutions than his development of biological

weapons which contravene international

law and jeopardizes the health of the region.

In general, the criterion of last resort has a

common sense interpretation in which it functions

as a reminder that the resort to violence

must be, to a significant degree, reluctant. It

enjoins us to make serious efforts at peaceful

resolutions of our political problems before

going down the path of war. The term ‘‘peaceful’’

is itself open to varied interpretations, but

is usually taken to include a comprehensive

range of nonviolent methods that may involve

‘’coercive diplomacy,’’ including sanctions of

an economic and political character.

The principle of proportionality evaluates the

effects or ends of war. In this regard, proportionality

is ‘’counting the costs’’ or cost-benefit

analysis. In just was theory this principle insists

that there be due proportion, that is, less

evil following from acting rather than not acting

in the manner contemplated. War is not justifiable

if it will produce more death and destruction

that it prevents. Understood properly, proportion

has the potential for overriding just cause.

Although Iraq is clearly a menace, there is

little evidence to suggest that it poses a direct

and immediate threat to the vital interests of

the United States sufficiently grave as to lead

to no other credible alternative to war. As

former NATO commander General Wesley

Clark testified before congress, ‘‘There is nothing

that indicates that in the immediate—the

next hours—the next days—that there is going

to be nuclear missiles put on launch pads to

go against our forces or our allies in the region.

And so I think there is, based on all the

evidence available, sufficient time to work

through the diplomacy of this.’’

Former National Security Advisor Brent

Scowcroft argued this summer in the Wall

Street Journal, that Saddam’s strategic objectives

appear to be to dominate the Persian

Gulf, to control oil from the region, or both.

This clearly poses a real threat to U.S. interests.

But there is little hard evidence to suggest

Saddam has close ties to al-Qaeda, and

even less to the 9/11 attacks. Given Saddam’s

psychology and aspirations, Scowcroft considers

it unlikely that he would be willing to

risk his investment in weapons of mass destruction

by handing them over to terrorists

who could use them for their own purposes

‘‘and leave Baghdad as the return address.’’

Saddam, Scrowcroft suggests, seeks weapons

of mass destruction not to arm terrorists, but

to deter us from intervening to block his aggressive designs.

In addition, as of this moment, with current

sanctions in place and the Security Council

contemplating reintroducing weapons inspectors

under existing of new UN resolutions, it

cannot credibly be claimed that America or the

world have exhausted non-violent alternatives.

I accept in principle that military intervention

against Iraq might be considered legitimate

law enforcement under just war doctrine. What

I do not accept is that it is justified at this time

because of the disproportionately horrendous

consequences such action may precipitate.

The reason I am doubtful relates less to the

risks to American national interests which accompany

intervention in the Muslim world, as

real and as large as I believe them to be, but

principally because of the risks invasion may

pose to civilization itself.

As I have listened to various proponents,

the efficacy of military intervention is based on

the assumption that a cornered tyrant will not

initiate the use of weapons of mass destruction,

providing the U.S. and others the opportunity

to destroy or otherwise seize effective

control of such weapons before Baghdad can

issue orders to strike.

This assumption may represent the most

dangerous intelligence estimate and the

frailest tactical assumption in human history.

What is known is that Saddam Hussein controls

tons of biological agents. What is known

is that he is attempting to develop a nuclear

explosive device, and while it is unlikely, it is

conceivable he may control such a weapon

today. Even if we assume our intelligence to

be correct and his nuclear capacity is yet to

be achieved, we can be sure he has a BW capacity,

portable and hidden. We know he has the means of delivery.

Therefore, intervention assumes Saddam’s

delayed contemplation of BW usage. But what

if Saddam is prepared to use BW immediately?

What if he seeks wider Arab support

by attempting to engage Israel? And what if

Israeli leadership responds proportionately,

perhaps disproportionately?

If biological agents are released in Haifa or

Tel Aviv, the prospect of a nuclear response

is not remote. American troops could be

caught in the crossfire and crosswind of two

sets of weapons of mass destruction coming

from different sources, each equally dangerous.

Is not the next 6–8 weeks the most

dangerous in the history of the region?

Before any strike, it would seem to me the

U.S. must know the location of every biological

weapon cache in Iraq and have a clear

plan and capacity to destroy or control these

weapons within minutes of the initiation of military

action. Absent that capability, military

intervention would be based upon inadequate

intelligence and a potentially catastrophic misjudgment of intent.

The risks are extraordinary. However, it is

suggested that as large as the risks are today,

they will be graver in subsequent years. Surely,

it is said, we cannot allow Saddam’s weapons

of mass destruction to deter the United

States from taking necessary action.

This line of argument has substantial merit.

But it does not necessarily provide a compelling

rationale to intervene today. The reason it

doesn’t is because of a lack of understanding

of the danger of biological agents. Pounds or

ounces of biological agents, such as plague or

anthrax, can be devastating. Saddam Hussein

controls tons. Given these quantities, adding

more does not make him that much more dangerous.

While a shield may be technologically feasible

to develop to shoot down a missile that

leaves the earth’s orbit, there is no such thing

as a biological shield. Delivery systems can be

rudimentary and multi-faceted.

The coming conflict with Iraq is not only

symptomatic of the problem of terrorism but

arguably stands as the most difficult confrontation

in world history. If biological weapons

through usage are legitimized as instruments

of war, the survival of man is in desperate

jeopardy. While the Middle East contains

many conflicts rooted in differing approaches

to faith, the Iraq issue is fundamentally different.

It has far more to do with the conjunction

of science and despotism than a clash of civilizations.

The reason the United States led the world

community in the development of the Biological

and Toxin Weapons Convention in the

1970s to prevent the development, production,

and stockpiling of biological weapons is that

we came to the conclusion not only that the

use of biological weapons could jeopardize society

itself but we also decided that even experimenting

with these weapons was too dangerous

in the world’s most sophisticated scientific

community. It is a public health trauma

of unprecedented proportions to stockpile

these agents, let alone use them in war.

In this context, the case that Iraqi leadership

is lawless is compelling. And the case for lawful

regime change is real. But we are courting

unprecedented danger to the American national

interest and the existence of the state of

Israel to move from a policy of containment

and deterrence to a policy of military intervention

that may actually precipitate usage of

such horrendous weapons of mass destruction.

Based upon the mendacity of leadership in

Iraq, it is hard not to provide our President

with full discretionary support. The problem is

that this resolution contemplates an act of war

of unprecedented consequences. The logic of

its words leads to consequences too awful to

contemplate. I must vote no.